
Appeal Decision

Site visit made on 3 May 2016

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 14 September 2016

Appeal Ref: APP/A5270/W/16/3144337

1 and 1A Haven Green and Spring Bridge Mews, London W5 2AB

- 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 Mr and Mrs J Francis against the decision of the Council of the London Borough of Ealing.
- The application Ref PP/2014/1285, dated 17 February 2014, was refused by notice dated 14 August 2015.
- The development proposed is:

“Demolition of 1A Haven Green and the industrial building to the rear; construction of a new three-storey/four-storey building fronting onto Haven Green, extending to the rear (west) boundary and with a two-storey link attached to the side (south) elevation of 1 Haven Green to provide 17 flats (6 x one-bed units; 9 x two-bed units and 2 x 3 bed units); change of use of B1 floor space to residential with internal rearrangement of 1 Haven Green, to provide 3 new flats (1 studio and 2 one-bed units) in addition to the existing 4 flats; provision of 12 car parking spaces in the under-croft of the MSCP; revised access and servicing arrangements, including the closure of the existing vehicular access to the Use Class B2 building (to be removed) at the rear; provision of new hard and soft landscaping.

“Spring Bridge Mews – Demolition of commercial buildings to the rear (west) of Spring Bridge Mews; creation of a new public right of way to Dickens Yard from Spring Bridge Road; provision on the north side of the site of four commercial (Use Class B1/D1) units and a commercial studio unit, with bin store, at the east end and rear service corridor set beneath the MSCP and on the south side provision of 3 further commercial (Use Classes B1/D1) units, bin store and cycle storage, with entrance to 4 upper floors of residential accommodation to provide 20 studio units for the YMCA bridging over the pedestrian access.”

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs J Francis against the Council of the London Borough of Ealing. This application is the subject of a separate decision.

Procedural Matters

3. The above description of development is not that taken from the application form, but the one taken from the decision notice. This reflects the fact that the
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proposals were amended following submission. The revised wording is included on the appeal form and I have taken this to be an implicit acceptance of the new description. My determination of this appeal is based upon the amended plans considered by the Council.

4. The site address in the banner heading is taken from the application form. However, the Council has used the following address on the decision notice:
"12 Spring Bridge Road, Spring Bridge Road multi-storey car park, 1-16 Spring Bridge Mews, and 1, 1A and land rear of 1 Haven Green, Ealing W5 2AB."
5. There is nothing to indicate that this wording has been formally agreed between the parties. However, I have included it here for the sake of completeness as I consider it to be a more accurate description of the land within the red line.
6. Although the proposal is for development on two separate parcels of land, the appellants have chosen to pursue a single planning application. The Design and Access Statement indicates a clear intention for the scheme to be considered as a whole and I have determined the appeal on that basis.
7. The appellants have provided a completed unilateral undertaking (UU) which secures on-site affordable housing and financial contributions towards air quality monitoring, highway improvements and open space / public realm. It also seeks to preclude residents of the scheme from obtaining permits within the Controlled Parking Zone in the vicinity of the site. I shall return to the UU later in my decision.
8. My visit included an assessment of the proposals from the grounds of Christ the Saviour School, the top deck of the Spring Bridge Road multi-storey car park and two residential properties: No 2 Haven Green and No 1 Gordon Road. I was also able to view inside No 1A Haven Green and the industrial building to the rear.
9. During the site inspection my attention was drawn to a major development which was underway at Dickens Yard. For information purposes, the Council has provided copies of the approved plans and elevations for this scheme.
10. Where any buildings or other land falls within a Conservation Area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. My consideration of the appeal is made with this statutory duty in mind.

Main Issues

11. In the light of all that I have read and seen I consider that the main issues in this case are:
 - a) whether the proposals would preserve or enhance the character or appearance of the Haven Green and Ealing Town Centre Conservation Areas;
 - b) the effect on the living conditions of the occupiers of adjoining residential properties in Haven Green and Gordon Road, with particular reference to outlook and privacy;

- c) whether the proposed residential units in Spring Bridge Mews would provide acceptable living conditions for future occupiers, with regard to the physical size of the accommodation and outlook; and
- d) the effect of the development on Christ the Saviour School, with particular regard to the safety and well-being of pupils.

Reasons

Conservation Areas

12. The appeal site spans the main Reading to London Paddington railway line and incorporates a multi-storey car park which oversails the tracks. The proposed development would be split into two discrete and wholly separate parts. Each would lie within a different Conservation Area with the car park in between acting as a visual buffer.

Haven Green Conservation Area

- 13. The northern part of the appeal site lies within the Haven Green Conservation Area which is centred on the open space of Haven Green and the residential roads branching from it. This area has a pleasant Victorian and Edwardian character with some of the buildings dating back to the time when Ealing started to expand and flourish as one of London's more desirable suburbs.
- 14. The Victorian semi-detached houses on the western side of Haven Green were constructed some time between 1870 and 1890. Built in yellow stock brick with stucco trims, these 3-storey with half basement properties play an important role in framing the open space.
- 15. Although detached, No 1 Haven Green displays the same architectural language as the semi-detached properties adjacent. The building has been extensively rebuilt and sub-divided internally to facilitate mixed commercial / residential use. However, its original façade has been retained.
- 16. Immediately alongside and linked at first floor by an archway is another building known as No 1A Haven Green. Constructed in similar colour brick, its front elevation features attractive detailing comprising an oculus in the gable, trio of arches and decorative corbelling along the roof verges.
- 17. The Haven Green Conservation Area Character Appraisal (2008) identifies No 1A as a former public house. However, I understand that historically the building has been put to a number of other uses including a car showroom and prior to that stables. At the time of my inspection the premises were in use as offices over two floors. I am told that this is pursuant to a temporary planning permission.
- 18. Behind the street frontage and to the rear of Nos 1 and 1A lies another building. Described within the application as industrial, there is evidence of its former use as a garage – possibly in connection with No 1A. During my visit I saw that the premises were in the process of being fitted out as a recording/film studio. This building has a utilitarian character and is of limited architectural merit.
- 19. The proposal is to retain No 1 with minimal external alteration. However, the development would require the demolition of No 1A and the industrial building to the rear. The Council objects to the loss of No 1A which it describes as a locally listed building. Although the appellants challenge whether the designation

- procedures were correctly undertaken, there is no dispute that the building is included on the local list.
20. The appellants state that No 1A was substantially rebuilt in the late 20th century. They contend that this detracts from any heritage significance which it may have once had. However, regardless of the age of its fabric, I consider that No 1A is a striking building which makes a positive contribution to the character and appearance of the Haven Green Conservation Area.
 21. I note that No 1A was considered for listing by English Heritage who issued a Certificate of Immunity from listing. Whilst this confirms that the building falls short of the criteria for statutory listing, it does not preclude it from being identified locally as a heritage asset. The number of objections to demolition is a clear illustration of the value placed upon it by the community and this lends weight to the argument that it should be retained.
 22. Although substantial in the context of the building itself, the demolition of No 1A would amount to 'less than substantial harm' to the Conservation Area as a whole. In such circumstances, paragraph 134 of the National Planning Policy Framework (the Framework) requires that the harm should be weighed against the public benefits of the proposal. I shall return to this later in my decision.
 23. Turning now to the replacement development, the elevation facing Haven Green would mirror that of No 1 adjacent. In this respect the proposals would be in keeping with the local context. However, the flanks of the new building would be bland in appearance, and behind the pastiche façade the design would have little in common with the distinctive Victorian and Edwardian architecture of the area. In my judgement, the design is not of sufficiently high standard to justify the demolition of No 1A.
 24. Furthermore, whilst attempts have been made to break up the massing, the scale and bulk of the development on the rear portion of the site would be at odds with the local urban grain. Although I appreciate that there are already buildings on this land, the replacement scheme would be significantly larger and more prominent. It would have a greater impact in public views from Haven Green and Gordon Road and also when viewed from surrounding residential properties. From these vantage points it would stand out as a discordant and incongruous feature. This would add to the harm arising from the loss of the existing building.
 25. Accordingly, I conclude that the proposals would fail to preserve or enhance the character or appearance of the Haven Green Conservation Area. They would thus conflict with Policy 7C of the Ealing Development Management Development Plan Document (2013) (DPD) and Policies 7.8 and 7.9 of the London Plan (LonP)¹ insofar as they seek to prevent harm to heritage assets and retain elements identified as contributing positively to the Conservation Area.

Ealing Town Centre Conservation Area

26. The southern part of the appeal site lies within the Ealing Town Centre Conservation Area. According to the published Character Appraisal (2007) it comprises two distinct character areas: the main shopping centre and a separate residential enclave. Spring Bridge Mews lies within the former, sandwiched in between the multi-storey car park and Christ the Saviour School.

¹ Consolidated with revisions and amendments since publication in 2011

It contains an L-shaped terrace of former cottages which have pedestrian access from Spring Bridge Road. The proposal is to replace these buildings with new commercial units (Use Class B1/D1), above which would be 4 storeys of residential accommodation.

27. It is unclear from the Council's evidence whether members of the Planning Committee were concerned regarding the loss of the existing buildings on this part of the site. However, interested parties have objected on the grounds that they are the last remaining working Victorian mews within Ealing. The evidence fails to persuade me that the buildings have a level of interest making them worthy of protection as non-designated heritage assets. In my judgement, they make a neutral contribution to the character and appearance of the Conservation Area. Their loss would therefore be acceptable in townscape terms, subject to the replacement scheme being of an appropriate quality.
28. The appearance of the proposed building would be undistinguished. However, I am mindful that this part of the Conservation Area is characterised by modern architecture. Recent developments at Dickens Yard and Christ the Saviour School have similarities in style to the appeal scheme. Having regard to this, the relatively discreet location of the site and the scale of the proposed building comparative to surrounding structures, I do not consider that the proposals would be out of keeping. Further information regarding materials and finishes would be necessary to ensure an acceptable design quality, but these could be secured by planning condition in the event of permission being granted.
29. I therefore conclude that there would be no harm to the character or appearance of the Ealing Town Centre Conservation Area and no conflict with Policy 7C of the DPD or Policies 7.8 and 7.9 of the LonP in this regard.

Living conditions (neighbouring occupiers)

30. Although not identified as an issue by the Council, concerns have been raised regarding the effect of the Haven Green proposals on adjoining residents. During my visit I accepted invitations to assess the proposals from No 2 Haven Green and No 1 Gordon Road. Both properties already have an outlook onto the blank walls of the industrial building which abuts their garden boundaries.
31. The appellants have submitted a daylight/sunlight study to demonstrate that there would be no adverse effect on neighbouring properties and gardens. Whilst I have no reason to question the findings of this report, it does not take into consideration the impact of the additional scale on general outlook. The proposed development would be taller and bulkier than the existing industrial building and the new brickwork would be stark in comparison with the weathered cladding which presently exists. In my opinion, and notwithstanding the absence of any objection from the local planning authority, the mass of the development would be oppressive and unneighbourly for those living adjacent.
32. Furthermore, a number of the proposed flats would have windows facing towards the northern site boundary. These windows would provide future occupiers with direct views into the rear garden belonging to No 2 Haven Green. Given the distance to the boundary and the four storey nature of the development, this would be intrusive and it would result in a material reduction in privacy. In reaching this finding I have taken account of the differences in ground levels.

33. Accordingly, I conclude that the Haven Green proposals would have an unacceptable adverse impact on the living conditions of the occupiers of neighbouring residential properties, in terms of outlook and privacy. As such, they would be contrary to the Framework insofar as it seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Living conditions (future occupiers)

34. The Council is concerned that the Spring Bridge Mews development would provide sub-standard accommodation for its occupiers. There is no dispute that a significant proportion of the studio units would fall below the minimum space standards set out in Table 3.3 of the LonP.
35. The proposal is to provide temporary "Move-on" accommodation for young people to prepare them for independence. This is a specialist form of housing provision and the YMCA is a well respected organisation with considerable experience in managing accommodation of this type, including similar sites elsewhere in the Borough. Having regard to this, and also the support for the scheme from the YMCA, I am satisfied that the accommodation would be of an adequate size. A departure from the minimum space standards set out in the LonP can therefore be justified.
36. Concerns are also raised regarding the use of obscured glazing in certain units. I gather that this amendment was proposed in order to reduce the potential for overlooking of the adjacent school playground. The obscured glazing relates to only one of the openings in each of the affected units; the studio living space would be served by a second window which would provide a satisfactory outlook.
37. I have noted the comments from third parties regarding the quality of outlook from the east facing units. This would be compromised but not so poor, in my opinion, as to justify dismissal of the appeal.
38. Overall, I conclude that the standard of accommodation within the Spring Bridge Mews residential units would be acceptable. I therefore find no conflict with Policy 3.5 of the LonP or Policy 3.5 of the DPD insofar as they seek to secure housing development of the highest quality, including internally.

Effect on Christ the Saviour School

39. The Council refused permission on the grounds that occupiers of the YMCA units would overlook the adjacent primary school. However, it is evident from the representations received that there are wider concerns regarding pupil safety, including fears that hazardous objects would be dropped into the school playground.
40. The playground is already overlooked from the open-sided decks of the nearby multi-storey car park. It will soon be overlooked by residential apartments in Dickens Yard which is currently under construction. Although this development is set back from the boundary the views from its windows and balconies would be directly comparable to those available from the appeal scheme. There will also be similar opportunity for objects to be thrown into the playground.
41. Whilst I can fully appreciate the high level of concern amongst parents, and from the school itself, there is no firm evidence to demonstrate that future occupiers of the development would present a greater risk to pupil safety than other adjacent users of land and property who overlook, or will overlook, the school.

Furthermore, the proposals would not lead to a material reduction in privacy for the users of the primary school.

42. I have noted the concerns regarding the effect of the proposed building mass on an external learning space at the school. However, I do not consider that there would be a significant adverse impact on the amenity of this space. The development would lead to an increased sense of enclosure but in my view this would not be materially harmful.
43. In conclusion, the proposed development at Spring Bridge Mews would not have an unacceptable effect on the safety and well-being of the pupils of Christ the Saviour School. There would therefore be no conflict with Policy 7B of the DPD, Policy 7.6 of the LonP or the Framework insofar as they seek to ensure that the design of new development achieves a high standard of amenity for adjacent uses.

Other Matters

44. The appellants contend that there is a fallback position in terms of an extant planning permission for a hotel on the appeal site. I have noted Counsel opinion which concludes that the permission is still live. In the context of a Section 78 appeal, it is not for me to reach a finding on the issue of lawfulness. However, the existence of a potential fallback is a material consideration to which I must have regard.
45. I do not know the precise circumstances in which the hotel permission was granted and have not been provided with a copy of the approved plans. Nevertheless, it is apparent that No 1A would have been retained as part of that development. Moreover, there is no firm evidence to persuade me that there is a significant likelihood of the hotel being built in the event of the appeal being dismissed. Given this, and the differences between the schemes, I have attached very little weight to the fallback argument.
46. I have taken into consideration the fact that the proposals have been the subject of extensive discussion with the Council's officers. This culminated in a recommendation for approval. However, the Planning Committee resolved to refuse planning permission and that is the decision which is the focus of my attention.
47. I have been referred to a brief which was prepared by officers to guide development of the appeal site. However, there is nothing to indicate that this document was subject to public consultation and therefore it carries minimal weight as a material consideration.
48. It has been asserted that there is a covenant on the land which would prevent the appeal scheme from going ahead. However, this is a private matter which has had no bearing on my consideration of the case. Likewise, other issues surrounding landownership do not carry any significant weight.
49. I have had regard to all other matters raised in representations, including the concerns regarding highway and pedestrian safety, the effect on the green rail corridor, noise from vehicles using the new parking spaces and disturbance during the construction phase. However, based on the information before me and my own observations whilst on site, these would not constitute reasons to dismiss the appeal.

Planning Balance and Conclusion

50. The appeal scheme would bring forward a number of public benefits. Firstly, it would make use of previously developed land to deliver much needed housing in a highly sustainable location. Secondly, it would provide affordable housing, including specialist residential accommodation for the YMCA. Thirdly, it would secure an improved pedestrian link between Dickens Yard and the Haven Green open space and Ealing Broadway transport hub.
51. Demolition of the existing industrial building would also remove a potentially unneighbourly use and its associated vehicle movements. However, there is little concrete evidence of any nuisance or highway safety issue. I have therefore given this benefit only a small amount of weight.
52. The financial contributions secured within the UU and the Community Infrastructure Levy monies which would flow from the development are primarily intended to mitigate the impacts of the development. Nevertheless, they would bring wider benefits to the local area and as such I have treated them as net positive in the overall planning balance.
53. Paragraph 134 of the Framework requires that I balance the harm to the designated heritage asset against the public benefits. I must attach significant importance and weight to the harm to the Haven Green Conservation Area arising from the loss of No 1A and the design of the replacement building. In my judgement, this harm would outweigh the public benefits identified above.
54. The proposals must also be considered in the context of the presumption in favour of sustainable development which is set out in the Framework. This has three dimensions: social, environmental and economic. It is clear that the scheme would bring forward a number of social and environmental benefits, as outlined above. Furthermore, the scheme would contribute to the economic role of sustainable development by stimulating investment and creating jobs in the construction industry. The replacement commercial floorspace would also make a small but positive contribution to the vitality and viability of the town centre.
55. However, paragraph 8 of the Framework makes clear that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. I have concluded that there would be harm to the Haven Green Conservation Area and have also identified adverse impacts upon the living conditions of neighbouring residents. These would bring the proposals into conflict with the environmental and social roles of sustainable development respectively. As such, the proposals would not constitute a sustainable form of development.
56. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR