



# Appeal Decision

Inquiry held on 13 May 2008

Site visit made on 13 May 2008

by **David Leeming**

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

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**Decision date:**  
**16 June 2008**

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## Appeal Ref: APP/A5270/A/08/2062050

### 107-111 Churchfield Road, Acton, London W3 6AH

- 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 Palmfield Ltd against the decision of the Council of the London Borough of Ealing.
- The application Ref P/2007/3230-ST, dated 11 July 2007, was refused by notice dated 18 October 2007.
- The development proposed is residential redevelopment to form 14 No. new flats & 2 No. offices.

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## Decision

1. I allow the appeal, and grant planning permission for residential redevelopment to form 14 No. flats and 2 No. offices at 107-111 Churchfield Road, Acton, London W3 6AH in accordance with the terms of the application, Ref P/2007/3230-ST, dated 11 July 2007, and plans 1467/002C, 1467/003A, 1467/08L and 1467/09J, subject to the conditions in the attached schedule.

## Procedural Matters

2. In reaching my decision on the appeal I have taken into account the various written comments made by and on behalf of local residents to the Council in response to notification of the application last year, copies of which were sent to the Planning Inspectorate by the Council only on 12 May 2008 but not seen by me before the Inquiry.
  3. It was noted at the Inquiry that some of the London Borough of Ealing Unitary Development Plan (UDP) policies referred to in the Schedule of Reasons attached to the Refusal Notice had not been saved by Direction of the Secretary of State because the matters covered by them are now within the London Plan.
  4. As agreed at the Inquiry, the appellants have subsequently submitted a fully signed and executed Unilateral Undertaking relating, among other things, to appropriate provision towards education and health services in the Borough. The wording of this document was seen and agreed by the Council at the Inquiry. My decision means that this Undertaking will now take effect.
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## **Main issues**

5. The main issues in this appeal are firstly whether the proposed development would have an unacceptable impact on the character and appearance of the area (including the adjacent Acton Town Centre Conservation Area) by reason of its height, bulk, massing and its terracing effect in relation to adjacent buildings and, secondly, whether it would comply with UDP requirements in respect of parking for people with disabilities.

## **Reasons**

### *Character and Appearance*

6. Although accepting that the existing residential building is in good condition and that it makes a positive contribution to the character of the area, the Council do not object, in principle, to its replacement by another containing both flats and basement office accommodation. No concerns too are raised about the design of the building's frontage. Rather the Council's concern is in respect of the overall height, bulk and mass of the proposed replacement building.
7. As to height, the replacement building would have 5 rather than 3 storeys plus basement as at present. As a result, it would be taller. However, with reduced floor to ceiling heights than the present building, the overall increase in height would be only about 2 metres, the effect of which would be somewhat offset by the uppermost floor being set into a mansard roof. Moreover, despite the increase in height, this would not exceed that of the three storey public house (Foley's) at the western end of the terrace. Whilst the adjacent buildings in the terrace to the east are much smaller in scale, the replacement building, as the existing one, would effectively form part of the taller and larger scale group with the public house and the intervening building, No. 113. This group has windows at different heights and in this context the fact that there were 5 floors would not look awkward. Moreover, the lengthy 4 storey terraces along the opposite side of the road are of such scale as to ensure that the building, seen in this wider context, would not appear overly tall.
8. The Council are concerned about an alleged awkward stepping up of height in relation to the neighbouring property, No. 113. However, in the overall context of a street where buildings vary considerably in height and form, the resulting castellated effect together with the Foley's public house, rather than the current somewhat uneven stepping up in heights of the three end properties, would not appear incongruous. I accept that there would be an added contrast in the existing considerable step up from No. 105, in the lower height terrace to the east. Even so, in the context of the tall parades along the opposite side of the road, the westernmost of which appears as a focal feature on the outside of a bend, I consider that the impact of this step up would not be visually intrusive.
9. On bulk and mass, the building would be deeper at the sides and marginally wider at the front, but its greater size would mostly be apparent from the rear. Even so, contrary to the comment made by the Council in their closing statement, the site inspection confirmed that it would be set back some way behind rather than beyond the built form of No.105. Indeed, much as at present, some 45% of the plot would remain as rear garden/amenity space.

The existing building has three significant extensions that substantially increase its bulk to the rear. The proposed replacement would extend out further from these by about 1.2m, which would not result in a significant increase in its footprint. I accept that it would 'fill in' the gaps between these extensions and also increase the height and presence of the building at the rear. However, the rear extensions appear to be later additions to the original building and in my view look somewhat awkward in relation to it. In contrast, the proposed replacement building would be well designed and have an integrated and well balanced appearance at the rear as well as at the front. In this context and having regard to a general lack of conformity in the building lines and heights of the extensions to the rear of the adjacent properties, I consider that the greater bulk and mass of the proposed replacement building would not harm this 'backland' setting.

10. A further concern of the Council was that the higher wall adjacent to No. 105 would be unrelieved by any changes of detailing within the proposed extensive area of brickwork forming the new flank elevation. However, the submitted drawings show that there would be detailing from blind windows. In addition, there would be some relief from the slate hanging at upper floor level, to match the mansard roofs to the front and rear. To my mind, this would overcome the Council's concerns outlined above.
11. As to infilling of the existing gaps between the adjacent properties Nos. 105 and 113, these are quite narrow and currently closed off to view at street level by the presence of lockable access doors to those flats in the building that have entrances at the rear. In the context of a street where, for the most part, buildings form part of longer terraces and there are few significant gaps between them, I consider that the loss of the gaps here is not critical.
12. The Council raise additional concerns about the impact of the development on the Acton Town Centre Conservation Area. They accept, however, that the site is not easily visible from within the greater part of this area, although they point to PPG 15 which makes it clear that both views into and from conservation areas are relevant when assessing impact. It was established at the Inquiry that the Foley's public house (No. 115), the nearby St Mary's Burial Ground and the parade opposite the site were all now part of the extended Conservation Area. However, the Council accept that the proposed development would not harm the setting of the locally listed public house. Neither, in my view, in the circumstances outlined above, would it have any adverse visual impact in views of the rear of the site from the Burial Ground or intrude unacceptably in the outlook into the Conservation Area.
13. The proposed development would therefore comply with Policies 4.1 and 5.5 of the Ealing UDP which require development to be of an appropriate height and scale and of high quality design that relates well to its setting and respects the character of the area and with Policy 4.8 in respect of new development adjacent to conservation areas.

#### *Parking Provision*

14. The second ground of refusal was that the development would not comply with UDP Policies 4.3 and 9.1 in respect of a requirement for a minimum provision of one on-site disabled parking space per 10 units. However, the Council's

policies for transport seek to encourage access on foot, by wheelchair and bicycle and to maximise public transport use by visitors, employees and residents. The proposal would comply in these respects. The present building provides no parking facilities and the Council are content that, other than in respect of parking provision for the disabled, the lack of any parking spaces in the proposed scheme is acceptable. The supporting text to Policy 9.1 states that the number of car spaces for disabled car users is normally regarded as a proportion of the total number of spaces provided for a development. This is the context too in *Accessible Ealing*, the detailed guidelines for accessible development in Ealing, where (in Part 2) the requirement of 1 space per 10 dwellings is stated to apply to development where there is a communal parking area. In this context, I consider that the absence of any provision for disabled parking on site is not critical, even though there are limited on street parking facilities in the area. Accordingly, the failure, if any, of the proposal to comply with UDP Policies 4.3, 9.1 and associated guidance is not determinative.

## **Other Matters**

### *Plot ratio & Residential Density*

15. In their statement of case the Council raise additional concerns about the plot ratio and residential density of the development and about amenity space provision. Since these are not matters that led to refusal of planning permission I attach less weight to them.
16. On the first matter, there is no dispute that the density complies with the London Plan guidance on a unit per hectare basis. Although, at 2.5:1, the plot ratio exceeds the guidance figure for habitable rooms per hectare by a considerable margin, I note that the advice in paragraph 6.7 of the Housing SPG to the London Plan is that the density figures in table 4B.1 should not be seen as prescriptive and should be applied flexibly in the light of local circumstances. There is an apparent similar degree of flexibility in the Council's SPG 6 (Plot Ratios), with a higher ratio being acceptable in town centre developments that have a high degree of public transport accessibility. In any event, the higher than normal plot ratio in this case is because of the size of the combined living and kitchen areas of some units which, I am advised, are counted as 2 habitable rooms. If this were not the case I understand that a lower plot ratio, falling within the bounds of acceptability within the SPG guidance, would be achieved. The guidance in SPG 6 requires that in all cases site coverage by buildings should not exceed 75%. In this case, at about 55%, it would be well below this figure. In such circumstances, although not strictly complying with the guidance, I consider that the failure to do so should not count against the proposed development.

### *Amenity space*

17. As to amenity space provision, the Council draw attention to a shortfall in the minimum private garden space allocations for the two ground floor flats, having regard to the requirements in SPG 13 (Garden Space). The area of communal garden, at about 180sqm, would equate to the minimum requirements for each of the occupants of the upper flats. As an alternative to providing the recommended 50sqm space for private gardens where space allows, the SPG provides that there should be at least 3m between the ground floor windows

that adjoin the community garden and its boundary screening. This would be achieved in the proposed development. In addition the occupants of the ground floor flats would have access to the communal garden. I am therefore satisfied that the proposal provides adequate amenity space for the occupants of the ground floor flats. I am satisfied too that the amenity space within the communal garden would be sufficient to allow for play by children living in the flats.

#### *Living conditions*

18. Concerns have been raised by interested third parties about the impact of the development on living conditions, from overshadowing and as regards overlooking, especially from the proposed balconies. On the first matter, this is a particular concern of the occupants of No.113, the upper floors of this property being recessed between the more forward rear alignments of those to either side. However, the windows of the habitable rooms on the upper floors are set close to the side wall of No.115 and I am satisfied that there would be minimal loss of daylight and sunlight as a result of the presence of the extended replacement building, particularly having regard to the south facing aspect of these windows.
19. On overlooking, there would be a separation distance of 28m to the main rear walls of the dwellings in Grove Place to the south and 24m to their rear extensions. These distances exceed the minimum requirement of 21m in the Table 5C of Policy 5.5 of the UDP. The proposed balconies would be set between the more forward sections to either side of the rear elevation, thus limiting views sideways to neighbouring gardens. They would be fronted by boarding, which would provide privacy to users of the balconies and restrict visibility towards the rear elevations and gardens of dwellings to the south in Grove Place. There would be limited and oblique views only towards and from the back garden of No. 105 and others in Churchfield Road. I am therefore satisfied that the living conditions of local residents would not be significantly affected.

#### *Other factors*

20. The proposal would increase the number of dwellings on site from 6 to 14 and the Council accept that this more efficient use of land is a factor weighing in favour of the development. Indeed, the development of additional dwellings is accepted in areas served by high quality local services and public transport facilities, provided relevant UDP policies can be satisfied. The Council acknowledge that the development would be sustainable, notwithstanding that in this respect renovation and re-use of buildings is encouraged rather than redevelopment (LP Policy 4.1 – Table 4A v) refers). They also accept that the provision of office accommodation in this mixed use locality would comply with UDP Policy 6.2. These factors add weight to my conclusions on the main issues.

#### **Conditions**

21. I have considered possible conditions, as discussed at the Inquiry, against the advice set out in Circular 11/95. In the interests of producing a development that is environmentally satisfactory and complies with relevant adopted Local Plan Policies and Supplementary Planning Guidance, conditions dealing with

materials of external construction, Lifetime Homes Standards, renewable energy, landscaping and landscape maintenance, boundary treatment including that between the ground floor flats and communal amenity space, external lighting, crime prevention and security, methods of operation and in respect of the retention of the designated wheelchair accessible flats and of cycle parking will be imposed.

22. With regard to the Council's suggested condition to protect the building envelope from external noise and vibration, whilst the development would front a reasonably busy road and would be next door but one to a public house, no specific evidence on noise levels has been produced by the Council to warrant the condition in this case. From the evidence of my site visit, it seems to me that sources of noise in the vicinity are not of such levels as to be a determining factor in granting planning permission. As to vibration, I note, from Annex 3 to PPG 24: *Planning and Noise* that research shows that structural damage to buildings through vibration from road traffic is unlikely to occur. I do not therefore intend to impose the Council's suggested condition on external noise levels and vibration.

**Conclusion**

23. For the reasons given above I conclude that the appeal should be allowed.

*David Leeming*

INSPECTOR

## **APPEARANCES**

### **For the Appellants**

Mr Alun Alesbury of Counsel, instructed by Planning & Project Management Services. He called: -

Mr Philip Pearlman, Dip.Arch (Hons), RIBA, MaPS, P+R Associates, 79 Calder Avenue, Brookmans Park, Hatfield, Herts AL9 7AJ.

Mr Alvin Ormonde, Planning & Project Management Services, 32 Sneath Avenue, London NW11 9AH.

### **For the Council**

Ms Noreen Dunn, Solicitor, instructed by Head of Planning Services, Ealing LBC. She called: -

Mr Peter Lee, DIP.GEOG, BA (Hons), MRTPI, Council Planning Officer, Ealing LBC.

### **Interested Persons**

Ms Sandy Stagg-Peterson, 105A Churchfield Road, London W3 6AH.

Cllr. Vlod Barchuk (Acton Cental ward), 4 Saxon Drive, West Acton, London W3 0NR.

Mr Victor Mishiku, The Covenant Movement, PO Box 841, Bollo Lane S.O., Acton, London W3 8RL.

## **DOCUMENTS**

Doc. 1 - Council letter, dated 16 April 2008, giving notification of inquiry arrangements.

Doc. 2 - A signed Unilateral Undertaking, dated 13 May 2008.

Doc. 3 - Copies of e-mail exchanges between the appellants and the Council, dated 24 & 25 September 2007.

Doc. 4 - Copy of OS Extract showing up to date Acton Town Centre Conservation Area boundary adjacent to site.

Doc. 5 - Council Committee papers relating to the 2004 extension of the Acton Town Centre Conservation Area.

Doc. 6 - A third party letter of objection, plus photograph, from Mr Yousuf, 113 Churchfield Road, Acton.

Doc. 7 - Copy of Chapter 9 from London Borough of Ealing UDP.

Doc. 8 - Copy of Policy 5.3 'Lifetime Homes and Wheelchair Housing' from the Adopted Local Plan.

Doc. 9 - Copy extracts from the London Plan (February 2008 version).

Doc. 10 - Council's closing submission.

Doc. 11 - A bundle of third party objections received by the Council in response to their letter of notification of receipt of the planning application.

**PLANS**

Plan 1 - Plan 1467 002 Rev.C

## **SCHEDULE OF PLANNING CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) 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.
- 3) All residential units hereby approved shall be constructed to Lifetime Homes standards, specified in Policy 5.3 Table 5B of the Adopted Ealing UDP 2004, in so far as they are applicable, details of which shall be submitted to and approved by the local planning authority prior to commencement of works. The approved details shall be implemented prior to first occupation.
- 4) Details of energy efficient design and consideration of on-site equipment for renewable power generation for the building so that at least 10% of all energy requirements within the resulting development are sourced from renewable energy resources, shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to first occupation and shall be permanently retained thereafter.
- 5) No development shall take place until full details of both hard and soft landscaping, including a programme for its implementation, have been submitted to and approved in writing by the local planning authority.
- 6) No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years from the implementation of final planting has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation.
- 7) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected, including that between the rear gardens of the ground floor flats and the communal garden area. The boundary treatment shall be completed before the flats are first occupied and shall be permanently retained thereafter.
- 8) Details of any external lighting, including floodlighting, and of crime prevention and security measures shall be submitted to and approved in writing by the local planning authority before the first occupation of the development. No alterations or additions to the external lighting or crime prevention and security measures shall be introduced without the written permission of the local planning authority.
- 9) The designated wheelchair accessible units (flats 1 and 2) and the cycle parking shown on the approved plan 1467/08L, shall be implemented in accordance with the submitted details prior to first occupation of the development and permanently retained.
- 10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved

in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period unless otherwise agreed in writing by the local planning authority. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
  - ii) loading and unloading of plant and materials
  - iii) storage of plant and materials used in constructing the development
  - iv) the erection and maintenance of security hoarding
  - v) the provision of facilities for the cleaning of vehicle wheels to prevent deposit of mud and other material onto the public highway
  - vi) measures to control the emission of dust and dirt during construction
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- 11) With respect to any condition that requires the prior written approval of the local planning authority, the works thereby approved shall be carried out in accordance with that approval unless subsequently otherwise approved in writing by that local planning authority.