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# Appeal Decision

Hearing held on 2/3 August 2022

Site visits made on 1 and 3 August 2022

**by Ben Plenty BSc (Hons) DipTP MRTPI**

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

**Decision date: 21 September 2022**

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## **Appeal Ref: APP/R5510/W/21/3288333**

### **Tavistock Works, Tavistock Road, Yiewsley, WEST DRAYTON UB7 7QX**

- 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 Linea UB7 Ltd against the decision of London Borough of Hillingdon.
  - The application Ref 35810/APP/2021/1234, dated 26 March 2021, was refused by notice dated 25 June 2021.
  - The development proposed is the demolition of an existing building and its replacement with an up to 8-storey building comprising residential units and associated car parking, landscaping and amenity space.
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## **Decision**

1. The appeal is allowed, and planning permission is granted for the demolition of existing building and replacement with an up to 8-storey building comprising residential units and associated car parking, landscaping and amenity space at Tavistock Works, WEST DRAYTON UB7 7QX in accordance with the terms of the application, Ref 35810/APP/2021/1234, dated 26 March 2021, and the plans submitted with it, subject to the schedule of attached conditions and the s106 Legal Agreement.

## **Preliminary Matters**

2. The Hearing sat for two days on 2 and 3 August. I made an accompanied site visit on 3 August and saw the site from several flats within Fitzroy Court as part of my visit.
3. A s106 Legal Agreement<sup>1</sup>, in the form of a Unilateral Undertaking (UU), has been submitted in support of the appeal. This makes provision for highway works, precludes future occupiers from gaining access to a resident parking permit, an off-site affordable housing contribution, employment and construction training, air quality and carbon funds, an open space contribution, and the provision of a parking space on Tavistock Road for a car club. I shall return to this later in my decision.
4. Policy D6 of the London Plan and DMHB12 of the Local Plan Part Two – Development Management Policies (DMP), referenced in the Council’s Reason for Refusal One refer to tall buildings. However, the Council stated at the Hearing that upon further consideration these policies were not engaged as the proposal would not be tall in comparison to adjacent buildings. I see no reason

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<sup>1</sup> S106 Legal Agreement, by Linea UB7 Ltd and Oaknorth Bank Plc, dated 6 August 2022

to disagree with this assertion and thus these policies weigh neither for nor against the proposal.

5. The Padcroft Works site, adjacent to the site, gained planning permission<sup>2</sup> for the development of 308 flats and offices in 2015. This was also subject to two approved Section 73 applications that made alterations to the internal configuration of the approved building, other minor changes and to add 7 further flats. This building has now been completed with Fitzroy Court being the southern-most block of Padcroft Works, adjacent to the appeal site.
6. The Comag site, also adjacent to the appeal site, was subject to recent planning permission<sup>3</sup> for the erection of 104 flats and community space. This demonstrates the scale of development the Council has previously found to be acceptable, within the same allocated site. Although approved in 2018 and now expired, I see no reason in evidence why the policies associated with that decision do not still carry significant weight in relation to the revised National Planning Policy Framework (the Framework). Therefore, the Comag scheme remains a material consideration albeit of limited weight.
7. New Guidance<sup>4</sup> from the British Research Establishment (BRE) with respect to daylight and sunlight was recently published. This is a comprehensive revision of the 2011 edition, which it replaces. The Guidance was recently revised and the Average Daylight Factor (ADF) test for proposed accommodation was deleted and replaced by calculating target illuminances and daylight factors. Main parties were given an opportunity at the Hearing to update their evidence to reflect any changes caused by the new guidance. I have paid regard to the further comments that I received on this matter.
8. At the start of the Hearing, I accepted the submission of several pieces of late evidence. These consist of speaking notes prepared by the Appellant's consultants, relating to the main issues and included photographs to assist with the site visit. The speaking notes expand on points raised in the Appellant's Statement of Case and the new BRE Guidance. I am satisfied that no parties would be prejudiced by my taking these into account.
9. Amended Plans and a Landscape Strategy were submitted by the Appellant in support of the appeal. These show the relocation of part of the cycle store, all of the bin store and other minor elevational changes to the configuration of some fenestration at ground floor level. The Landscape Strategy shows how the areas of external amenity space could be landscaped. Having heard the views of both main parties I decided to accept these amendments on the basis that they would not be materially different to that which was before the Council and would not prejudice any party.

## **Main Issues**

10. The main issues are:

- The effect of the proposed development on the character and appearance of the area;

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<sup>2</sup> Planning Application Reference: 45200/APP/2014/3637

<sup>3</sup> Planning Application Reference: 24843/APP/2018/269

<sup>4</sup> Site layout planning for daylight and sunlight (BRE 209 2022)

- The effect of the proposal on the living conditions of future occupiers with respect to the provision of external amenity space;
- The effect of the proposal on the living conditions of occupiers of Fitzroy Court, with particular respect to sunlight, daylight and outlook; and
- Whether the proposed development would deliver all necessary planning obligations to satisfy the requirements of local and national policies.

## Reasons

### *Character and appearance*

11. The site is within an area of mixed use. Areas to the north-west of the site consist of traditional housing of diverse styles consisting of terraced and low-rise flatted development. To the south and east of the site are commercial areas, with local retail concentrated along High Street and Station Road. The local pattern of development consists of buildings that are either adjacent to or slightly recessed from the footway, creating a strong urban character. The appeal site is opposite a wooded embankment. The site consists of a two-storey building with a small parking area to its rear. The building is functional in design. As a result, the site makes neither a positive nor negative contribution to the character and appearance of the area.
12. The site is within an area of land that is transitional. It is adjacent to the residential development of Padcroft Works and the Comag site. The site is within the Yiewsley/West Drayton Town Centre, with traditional two and three storey housing within the wider surrounding area. The proposed development would be a combination of six and eight stories. It would address the street, largely on the back of the footway, forming a hard urban edge to the street. This would replicate the form of built form evident on several recently completed local developments including Padcroft Works, on Bentinck Road and more historical development on High Street and Station Road. Furthermore, the proposal would be similar in height to many elements of Padcroft Works and the expired Comag Scheme. Consequently, the proposed height and siting of the building, would complement the character of the area, in respect of both the existing and emerging new streetscene.
13. The width and depth of the building have been determined by a number of factors. The proposed building stands within an urban area where buildings are close together and many form continuous frontages. In replicating this approach, the proposal correctly occupies the site's frontages with comprehensive built form. The depth of the ground floor of the building responds to the blank rear wall shared with Padcroft Works with a podium deck that would create amenity space at first-floor. The depth of the building above ground floor, onto Tavistock Road, would be informed by its floorplate in creating a uniform 'front-to-back' dimension. This would arrange flats in a logical stacked manner with space behind being retained for the amenity deck. Furthermore, the building includes a window arrangement that is stacked in vertical groups within traditional brick elevations. This would create a coherent design that replicates the established rhythm of local contemporary development.
14. The mass of the proposal would occupy a greater area of the site in comparison to Padcroft Works, with fewer open spaces around the building. Nevertheless,

its scale would be partly informed by clear design objectives to both complement the height of Padcroft Works and make a strong contribution to the street.

15. The rear elevation of the proposed building would, in places, be close to Fitzroy Court. The ground floor plan would cover the majority of the site. It would incorporate a small enclosed car park and two flats. The building would be adjacent to the boundary wall of Padcroft Works, screening a blank feature of the neighbouring building at its lower level. Above this, the proposed building would narrow at its rear to create a landscaped garden. This configuration would make efficient use of this constrained site and to successfully address Tavistock Road.
16. The side of the proposal would visually adjoin Fitzroy Court retaining a limited separation gap. This would enable the front elevation of development to visually extend the curved frontage of Block's 4, 5 and 6 Padcroft Works. This approach would continue the curvature of the existing frontage in an integrated and complementary manner. Furthermore, the side elevation of Fitzroy Court, makes a limited contribution to the street due to its recessed location and having a mostly blank elevation. Whilst the proposal would obscure this view this would not remove an important view of Fitzroy Court. As a result, the proximity of the proposal to Fitzroy Court would reinforce the street edge and the pattern of development initiated by blocks 4, 5 and 6 of Padcroft Works.
17. The Tavistock Road frontage of the proposal includes a number of functional components such as the access points to the car park, cycle store and bins store. These are essential elements to enable the building to function correctly. Being utilitarian in character these convey limited interest. However, the proposed ground floor flats, and their associated internal and external spaces, would add interest and activity that would enliven the corner. The proposed building would create an angled floorplan that, when seen in combination with the enclosed balconies, would create a strong corner feature adding interest to the building from this important view without harming views of the Padcroft Works site beyond. Consequently, the proposal would convey strong visual interest and activity both on the corner and along Tavistock Road.
18. As a result, the proposed development would complement the character and appearance of the area. Accordingly, the proposal would comply with policy BE1 of the Local Plan (Part 1) (2012) (LP), policies DMHB 10 and DMHB 11 of the DMP, policies D1, D2, D3, D8 and D9 of the London Plan (2021) and the Framework with respect to issues concerning the character and appearance of an area. These seek, among other matters, for development to harmonise with the local context taking into account the surrounding scale and height of adjacent structures and a design-led approach that optimises the capacity of a site.

#### *Living conditions – proposed*

19. Policy DMHB 18 of the DMP requires residential development to provide good quality outdoor amenity space in accordance with table 5.3 of the Plan. This table identifies that around 750sq.m would be required. I accept the Appellant's calculations showing that the scheme would provide around 294sqm of communal space and 177sq.m of private space, with a consequent under-provision of about 279sq.m. The external amenity space within the scheme would be provided in three main areas. These would be at first, sixth

and seventh floors. At ground floor the scheme would also provide small areas of both common and private space to the rear and side of the building. Furthermore, private balconies would be provided for most flats.

20. Although recognising the numerical shortfall, the consideration of the quantity of space provided should take into account the site's context and constraints and the quality of the external space proposed. The Appellant's sunlight assessment<sup>5</sup> of the external amenity space finds that more than half of the area receives 2hrs of more of direct sunlight on March 21<sup>st</sup> and 80% on June 21<sup>st</sup>, thus meeting BRE Guidance. Although the first-floor external area would be in shade for large parts of the day, being north-facing, this would be readily offset by the space provided at the seventh floor level and would provide users with a choice of amenity space. The first-floor amenity space would not be susceptible to anti-social behaviour as it would be a private communal area with access reserved to residents only.
21. The Appellant's Landscape Strategy shows how the communal and private spaces could be arranged. This shows a design that would create pleasant spaces and prevent overlooking towards neighbouring windows. The first-floor area includes low level planting and multi-stem subcanopy trees in raised planting around the northern boundary, with seating and hardstanding arranged between these. Although, this space would be largely in shade it would offer a pleasant semi-private space that would be sheltered from the sounds of the nearby railway line.
22. The sixth-floor space would offer a sunny and open space with a combination of shrubs, dwarf fruit trees and seating areas and planters to the north boundary to afford screening to and from neighbouring flats. The seventh-floor space would provide a children's play area with artificial grass and would be surrounded by planters to provide a pleasant space within a partially shaded location. These three areas have the capability to provide good quality external space as illustrated by the Landscape Strategy. These could be further detailed through a hard and soft landscaping plan, secured by planning condition.
23. The proposed ground floor amenity areas are relatively small. Nevertheless, the common area provides a useful meeting point for visitors or occupiers to gather. The private terrace areas assigned to the ground floor flats would be limited but would be a benefit to occupiers of these flats and make a contribution to the occupier's living conditions. All proposed flats above ground floor would have access to generous areas of private external space within enclosed balconies on the Tavistock Road frontage.
24. The Appellant has indicated the proximity of several areas of public open space to the site. Whilst these would not offset the on-site shortfall in quantitative terms, it illustrates that future occupiers would have access to public space that would complement the on-site provision within a short walking distance. It is recognised that the ward of Yiewsley suffers an under provision of open space and recreational space. However, the proposed scheme is relatively small and would put limited further pressure on local open space.
25. Therefore, taking the above points together, whilst the quantity of amenity space proposed is lower than the numerical requirements of table 5.3, the proposed external areas would be good quality, offering a variety of communal

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<sup>5</sup> AD3 speaking notes

and private spaces that would be high quality and useful. As such, taking into account the design requirements and constrained nature of the site, the external amenity space would be appropriate and adequate for the needs of future occupiers. As a result, the proposal would comply with policy DMHB 18 of the DMP in seeking development that would provide good quality and useable private outdoor amenity space.

*Living conditions – existing*

26. Fitzroy Court includes side windows that serve a number of bedrooms. The windows are clustered into three vertical stacked groups. The majority of windows are stacked in two groups with two flats on each of the floors 1-5 taking in direct views of the proposal with separation distances of around 10 metres and 19 metres. Floors 6 and 7 have a slightly different window configuration with separation distances of 10 metres and 7 metres.
27. DMHB 11 of the DMP requires development to not adversely impact on the amenity, daylight and sunlight of adjacent properties. A Court judgment<sup>6</sup> in 2018 clarified that assessment of these matters should be a two-stage process. Firstly, to determine whether there would be a material deterioration in conditions based on technical assessment and secondly, based on judgement, whether that deterioration would be acceptable in the particular circumstances of the case. If the BRE guidelines are exceeded the deterioration would be material. To answer the second question wider considerations are engaged where the effect of a material deterioration of living conditions must be judged on an individual proposal in its local context.
28. Although not a policy document, the BRE Guide (the Guidance) provides a useful tool to assess the effect of development on neighbouring occupiers in terms of sunlight and daylight. The windows most affected by the proposed scheme serve existing bedrooms within Fitzroy Court. The Guidance states that daylight distribution should consider each of the main rooms, including living rooms, dining rooms and kitchens. It states that bedrooms should also be analysed but are less important. It also states that the main requirement for sunlight is in living rooms, where it is valued at any time of the day especially in the afternoon. This is viewed as being less important in bedrooms and kitchens where people prefer it in the morning rather than afternoon<sup>7</sup> and that normally a loss of sunlight need not normally be analysed for these rooms<sup>8</sup>. As all main living rooms of Fitzroy Court have a window orientated within 90 degrees due south, these would continue to receive adequate sunlight.
29. Daylight considerations relate to light levels obtained from the sky. This is an assessment of daylight for existing buildings and represents how bright a particular window feels. This can be measured using Vertical Sky Component (VSC), expressed as a percentage. This considers the effect of an obstruction and is therefore a measure of daylight as a whole. The obstruction angle is the angle the obstruction makes from the centre of the subject window measured from the horizontal i.e.  $90 - \theta = \text{obstruction angle}$ . A VSC value of at least 27%, or no less than 0.80 times its former value and an obstruction angle of less than 25°, would generally give reasonable results with a limited perceived reduction of daylight.

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<sup>6</sup> Rainbird v The Council of the London Borough of Tower Hamlets [2018] EWHC 657 (Admin). 83-84

<sup>7</sup> BRE Guideline para 3.1.2

<sup>8</sup> BRE Guidance para 3.2.3

30. The Appellant's Daylight and Sunlight Report<sup>9</sup> assigns reference points for all windows within the effected blocks of Padcroft Works. Drawing P2646/W03 03, appendix 5, relates to the southern elevation of Fitzroy Court. The most affected bedroom windows have been assigned references W5 to W8 on levels 41-47. The VSC measure demonstrates that 25 of 65 windows would experience reductions of between 27% and 91%. With 12 windows experiencing a greater than 50% reduction of daylight, although 3 of these are secondary windows for living rooms. The remaining 9 windows most affected by a greater than 50% loss, serve bedrooms.
31. Consequently, the effect on the daylight levels received by occupiers of Fitzroy Court would result in a material deterioration in their living conditions due to the obstruction caused by the proposed building. However, as stated above, the *Rainbird* judgement identifies that if a material deterioration is found then consideration is required as to whether the local context and wider issues should be taken into account.
32. The guidance emphasises that existing buildings should be good neighbours, stand within a reasonable distance from the boundary and take no more than their fair share of light. Fitzroy Court includes bedroom windows that are extremely close to the shared boundary of the site. These access daylight from over the appeal site and as such take more than their fair share of light. In such circumstances, Appendix F of the Guidance advocates that other approaches to daylight and sunlight assessment may be appropriate. This is concerned with setting alternative values for skylight and sunlight access based on a site's context.
33. It appears that it was the intention of the allocation for all three sites A, B and C to come forward in a comprehensive manner. As such, the expected height and scale of development on site C should be generally consistent with other sites within the allocation. The scheme would be a similar height as Padcroft Works and the expired Comag site. Due to the proximity of Fitzroy Court to the shared boundary and the link of both sites through the allocation, the scheme presents a situation where alternative daylight measures should be considered.
34. Appendix F of the Guidance refers to a mirror image assessment. This alternative measure considers the effect of a building that accesses daylight over a neighbouring site. Given the site's context, the application of the mirror image assessment is an appropriate alternative measure to consider the effect of the scheme. The Appellant's Daylight and Sunlight Report, at Appendix 4, illustrates the effect on daylight levels to the windows of Fitzroy Court if its mirror image was placed on the appeal site. The Appellant's assessment demonstrates that a mirror image of Fitzroy Court would result in a building that would be significantly closer to the shared boundary than the proposed scheme above its ground floor podium. The analysis shows that such proximity would result in a substantially greater loss of daylight to the affected windows than is proposed by the current scheme.
35. The mirror-image assessment describes a more equitable arrangement where such an impact would be considered acceptable, in terms of a fair share of light. I therefore do not concur with the Council that to apply the mirror image assessment would be unfair to occupiers of Fitzroy Court. Rather, the mirror image measure appears to be more appropriate in this situation rather than the

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<sup>9</sup> Daylight and Sunlight Report, dated March 2021, by Point2

- application of the VSC measure. Consequently, this alternative measure provides a reasonable justification for a greater reduction in daylight to Fitzroy Court than by strictly applying the BRE Guidelines. To do so would unfairly prejudice the development of the appeal site and hamper the delivery of a building of suitable scale that would be commensurate with the aspirations of the allocation to provide comprehensive development across the three sites.
36. Furthermore, the Framework states that authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight where they would otherwise inhibit making efficient use of a site provided it would provide acceptable living standards. This is also identified by DMP policy DMHB11 that design safeguards for new development should be satisfactory to protect the re-development of any adjoining sites that have development potential.
37. In term of outlook, views from the bedroom windows and corner balconies on the south elevation of Fitzroy Court, look towards the rear elevation of the proposed scheme. I am cognisant that current views from higher levels of the neighbouring building currently include views of the tree lined railway embankment beyond the site. Instead, these views would overlook the proposal's landscaped amenity space at first floor and its fenestrated rear elevation. This would offer some architectural and green interest to observers. Consequently, whilst the outlook would change, most direct views would be from bedroom windows which are of secondary importance. As such, the proposed building would not be overbearing or domineering to occupiers of Fitzroy Court to result in material harm.
38. There would be a large number of flats within Fitzroy Court that would experience a substantial reduction of daylight within affected bedrooms. This change is understandably of concern to the residents affected. However, the identified reductions in daylight levels would not be excessive and within the context of the appeal site wider issues must be considered. The area is undergoing regeneration, in accordance with the Council's aspirations, and this has resulted in new higher density development being erected within this evolving area. The relationship proposed is appropriate taking the urban location of the site into account where expectations for a wide outlook and high levels of daylight and sunlight would be reduced. Access to reduced daylight would be offset by occupiers of all units within the allocated site having easy access to the town, its services and public transport connections.
39. Furthermore, the relationship between the side of Fitzroy Court and the rear elevation of the proposal would be similar to other locations within Padcroft Works and the wider area. Accordingly, the changes seen within the area, in comparison to existing relationships, is not substantially different or worse. Taking these matters into account I consider that the proposal would not result in an unjustifiable change. As such, the proposal would retain an acceptable living environment for existing occupiers of Fitzroy Court in terms of daylight and outlook.
40. Consequently, the proposed development would accord with policies BE1 of the LP, DMHB 11 of the DMP, policy D3 of the London Plan and the Framework with respect to the effect on living conditions. These policies seek, inter alia, for development to not adversely impact the amenity, daylight and sunlight of adjacent properties and to create a high standard of amenity for existing users.



### *Planning obligations*

41. The submitted Unilateral Undertaking is a signed and executable document. It includes a range of measures that have been sought by the Council and are listed within the Statement of Common Ground.
42. Policy H5 of the London Plan and DMP policy DMH7 requires the provision of 35% affordable housing. Whilst the viability appraisal illustrates that no provision could be offered, discussions with officers concluded that a small off-site sum could be provided in this regard. This would be spent in accordance with paragraphs 4.30-4.34 of the Council's Planning Obligations SPD (2014).
43. Due to the site's town centre location the provision of nine parking spaces would be acceptable. The local area is subject to parking restrictions and a controlled parking zone. Therefore, the proposed development would be likely to put additional pressure on the limited availability of on-street parking. As such, it would be necessary for the Appellant to prevent future occupiers from seeking a resident parking permit. The proposed highway works, within the UU, include the provision of a suitable access for vehicles to gain access to the on-site car park and repair the existing crossover.
44. Due to the limited proposed car parking the Appellant's Transport Assessment<sup>10</sup> recommends that the scheme includes the provision of a car club. This would require a space to be allocated on street, which I am satisfied could be readily accommodated. The car club would deliver sustainable benefits of the scheme in support of the Council's Planning Obligations SPD (2014) and would therefore be a reasonable component of the UU.
45. The Council's Planning Obligations SPD also seeks development to contribute towards training and employment. This is applied to most planning applications for significant employment generating development. The sums collected would be put towards training and employment in the borough. An in-kind scheme delivered on-site would be preferred by the Council. The UU would include the payment of a sum towards construction training courses and workplace coordinator or the delivery of an on-site training programme of similar value. This is a reasonable requirement that would relate in kind to the scale of the development and allow flexibility for either option to be provided.
46. The site is within air quality focus and air quality management areas. DMP Policy DMEI 1 requires green roofs to be provided on site where possible and for an off-site contribution to offset any on-site shortfall to create an Air Quality Neutral development and reduce pollution. The mitigation required has been calculated using the Defra's Damage Cost Approach. The sum required would be spent in accordance with the Council's Air Quality Local Action Plan.
47. Where it is demonstrated that development cannot fully achieve a zero-carbon target any shortfall should be provided as an off-site contribution as sought by DMP DMEI 2. In this case, a sum has been calculated using a pro rata sum of £60/tCO<sub>2</sub>, to determine the required amount.
48. An open space contribution is necessary to satisfy the requirements of DMP policy DMCI 4. This states that where an on-site provision of public open space cannot be provided, and off-site sum should be secured to enable the Council to provide/upgrade existing open space. The calculation for the sum derives

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<sup>10</sup> Transport Assessment, by i-Transport, dated 26 March 2021

from the Council's Planning Obligation SPD. The Council has confirmed the sum that would be required as stated within the UU.

49. As a consequence, the above detailed planning obligations are reasonable and necessary in satisfaction of the requirements of DMP policy DMC1 7, policy DF1 of the London Plan and the Framework.

#### *Other considerations*

50. DMP Policy SA38 allocates sites of A, B and C for redevelopment. It requires these to be developed in a comprehensive manner. However, whether these were brought forward as one single planning application or as three separate schemes, should not materially alter the objective of all parties to ensure that development comes forward in a comprehensive manner. These sites remain conjoined in policy terms by virtue of the allocation. I do not find that this policy means 'to cover the entire site in built form' but equally I see no reason why the proposal, in this case, should not result in the development of the whole site, such an approach suits the site and its design requirements.
51. Padcroft Works was approved in 2015, and consequently residential occupiers of the development should have been aware that they were moving into a regeneration area. It also seems reasonable to assume that site C would also come forward for redevelopment, at some point, as evidenced by its inclusion within the allocation and its planning history.
52. Furthermore, the Section 73 applications included the addition of new bedroom windows on the southern elevation. Within its Committee Report the Council stated that the changes proposed, including the addition of more windows overlooking the site, would not prejudice the development of Site C.
53. These considerations are of great importance as material considerations and establish a clear context for design principles on the appeal site. These matters weigh in favour of the delivery of a building of similar scale to that of Padcroft Works, and the expired scheme on Comag, despite the proximity of nearby neighbouring windows.
54. The scheme would deliver housing in accordance with an allocated site for such purposes. Accordingly, the proposal would contribute to the regeneration of this former industrial part of the town. The scale of the proposal accords with the general expectations of the allocation, as envisaged for sites A, B and C to come forward in a comprehensive manner. The proposal, whilst resulting in a reduction of daylight to some bedroom windows, would accord with BRE Guidance which states that a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings<sup>11</sup>.

#### **Other Matters**

55. The effect of the proposal with respect to privacy has been raised by interested parties. The rear elevation would include windows that would serve circulation corridors and are proposed to be obscurely glazed. As such, there would not be a poor relationship between windows of habitable rooms of the proposal and neighbouring flats. The limited overlooking that would occur to some flats within Yardley Court could be adequately mitigated through the imposition of a

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<sup>11</sup> BRE Guidance, para 1.6

condition. The first-floor external amenity space would be a similar height as the amenity space to the rear of Padcroft Works and would provide only oblique views towards nearest neighbouring windows. Also, views from the proposed external spaces at sixth and seventh floors would overlook neighbouring windows and balconies to a limited extent. These relationships could be further obscured by landscaping measures as proposed within the Landscape Strategy. As such, the proposal would not result in a material loss of privacy to adjacent neighbouring occupiers.

56. Concerns have been raised that the density of the proposal is excessive at 457dph (dwellings per hectare). DMP Policy DMHB 17 states that the Council will apply density standards as set out in table 5.2. This table explains that in urban areas, including West Drayton a density of 150-250dph would be appropriate. Nevertheless, the companion text to the policy explains that the table will be applied in a flexible manner and represents a starting point for discussions which should be ultimately determined by a design. Moreover, Policy D2 of the London Plan states that densities should be proportionate to a site's connectivity and accessibility and numerical density standards are excluded to prevent an arbitrary application of thresholds.
57. Furthermore, allocation DMP policy SA38 defines densities for Sites A and B but states that Site C should have a density that is to be determined by design. As identified earlier, the proposed scheme would be an appropriate scale and would represent good design. The site is constrained leading to an under provision of external amenity space. However, the accessibility benefits of the site and in meeting scale objectives of the plot in comparison to neighbouring development, indicates that the proposed density would be appropriate for the site.
58. I have taken into account representations made with respect to the impact on infrastructure, especially education places, airflow and loss of value, but these matters do not affect my findings on the main issues.
59. The moderately constrained location could result in some temporary disturbance from construction vehicles and activity. Nevertheless, the effect of construction on adjacent neighbouring occupiers, in terms of noise and disturbance, could be adequately mitigated through the imposition of a Construction Management condition.
60. Concerns have been raised by interested parties that the proposed development would represent a fire risk to adjacent occupiers due to its proximity. Policy D12 of the London Plan states that development proposals must achieve the highest standards of fire safety to ensure the safety of all building users. The Appellant's submitted fire strategy includes details of how fire safety measures would be included in the construction of the development and the means of fire detection and suppression. I am satisfied that the initial fire safety issues have been properly addressed and this could be suitably concluded through the submission of a Fire Statement by planning condition.

## **Conditions**

61. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). I have taken into consideration the list of suggested conditions appended to the Statement of Common Ground, which was discussed during the Hearing.

62. It is necessary for details relating to a dust management strategy and a construction management plan to be submitted prior to the commencement of development. I consider these pre-commencement conditions to be so fundamental to the development that it would have been otherwise necessary to refuse permission. These are required prior to construction commencing because they relate to the initial setting out of the site. These measures ensure the construction process would have an acceptable and limited impact on the living conditions of adjacent residential occupiers and on highway safety.
63. I have imposed the standard conditions with respect to timeframe, approved plans and approved documents as advised by the PPG for clarity and certainty. Conditions are necessary with respect to the provision of planting and materials/hardstanding in the interests of the character and appearance of the area. Details of levels are required to be determined by condition to ensure that the building would properly align with levels within Padcroft Works.
64. It is necessary to require obscure glazing and privacy measures on windows within the proposed development to ensure that the privacy of neighbouring occupiers would be maintained. I am cognisant that the Council would prefer to see reference in this condition to obscure glazing. However, the proposed form of words would achieve the same objective and allow for greater flexibility. This would enable main parties to find the ideal glazing/design solution, as fully obscured glazing may be unnecessary.
65. It is also necessary for the details of a low emission strategy, an overheating strategy and details of low/zero carbon technology to be provided to meet the requirements of policies SI 1, SI 2, SI 4 and T4 of the London Plan, LP policy EM8 and DMP policy DMEI 14. Also, a condition is required to ensure that accessibility requirements of policy D7 of the London Plan are delivered by the proposal. It is also necessary for the scheme to obtain Secure by Design accreditation to accord with policy D11 of the London Plan.
66. Furthermore, conditions are necessary to require a contamination assessment, noise survey and parking allocation plan to ensure the proposed development functions well in the interests of the living conditions of future occupiers. A condition is also necessary for the submission of a detailed Fire Statement to satisfy policy D12 of the London Plan.

### **Planning Balance and conclusion**

67. The proposal would underprovide on-site external space and result in a reduction in daylight to neighbouring flats, resulting in a material deterioration in their living conditions using BRE Guidelines and the VSC measure. However, the consideration of the mirror image effect as an alternative measure, has shown that an alternative scheme, mirroring Fitzroy Court, would result in a substantially greater reduction in daylight levels to the affected bedroom windows.
68. In contrast, the proposal would accord with allocation policy SA38 and would deliver a scheme that is well designed and responds positively to the site and its surroundings. The scheme would complement Padcroft Works and would align with the scale of both this and the expired consent of Comag. Therefore, the proposal would accord with the allocation's inherent expectation for development on site to complement adjacent plots and the site's urban context. Furthermore, the proposal would deliver housing on previously

developed land in a location with good accessibility and make a small contribution towards affordable housing.

69. The proposal would extend and continue the existing grain of development and contribute to the comprehensive redevelopment of this allocated site. On this basis, the proposed development would have an acceptable impact on neighbouring living conditions and its benefits would outweigh the under provision of external amenity space.
70. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given, the appeal should be allowed, and the scheme approved subject to the attached conditions and s106 Legal Agreement.

*Ben Plenty*

INSPECTOR

## APPEARANCES

### For the Appellant;

Mr Kevin Leigh	Counsel
Mr Mark Westcott	Planning Consultant
Mr Liam Dunford	Daylight, sunlight and overshadowing surveyor
Mr Pierre Saunal	Architect
Ms Christine Hereward	Solicitor
Mr Stephen Lerant	Heritage and townscape
M Catherine Layton	Heritage and townscape
Ms Catherine Xavier	Landscape Architect

### For the Council;

Mr Michael Brett	Counsel
Mr Chris Brady	Senior Planning Officer
Mr Mark Butler	Urban designer
Ms Roz Johnson	Planning Officer
Ms Sehar Arshad	Solicitor

### Interested parties;

Councillor Sital Dunja  
Councillor Jan Sweeting  
Ms Amanda Davidson

### Additional documents

AD1 speaking notes of Mark Westcott  
AD2 speaking notes of Pierre Saunal  
AD3 speaking notes of Liam Dunford  
AD4 speaking notes of Stephen Levrant  
AD5 speaking notes of Catherine Xavier  
AD6 Site visit itinerary and photographs

### **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 not be carried out except in complete accordance with the details shown on the submitted plans, numbers;  
  
0010-AD-XX-00-DR-A-0001 Rev 03, 0010-AD-XX-01-DR-A-0101 Rev 05  
0010-AD-XX-02-DR-A-0102 Rev 08, 0010-AD-XX-03-DR-A-0103 Rev 05  
0010-AD-XX-04-DR-A-0104 Rev 05, 0010-AD-XX-05-DR-A-0105 Rev 05  
0010-AD-XX-06-DR-A-0106 Rev 06, 0010-AD-XX-07-DR-A-0107 Rev 06  
0010-AD-XX-08-DR-A-0108 Rev 03, 0010-AD-XX-ZZ-DR-A-0225 Rev 03  
0010-AD-XX-ZZ-DR-A-0275 Rev 05, 0010-AD-XX-ZZ-DR-A-0276 Rev 03  
0010-AD-XX-ZZ-DR-A-0278 Rev 03, 0010-AD-XX-ZZ-DR-A-0277 Rev 04  
and 0010-AD-XX-00-DR-A-0100 Rev 14.  
  
Thereafter the development shall be retained/maintained in accordance with these details for as long as the development remains in existence.
- 3) The development hereby permitted shall not be carried out except in complete accordance with the specified supporting plans and/or documents: Flood Risk Assessment and Surface Water Management Report dated February 2021, Transport Assessment dated March 2021 and Travel Plan dated March 2021. Thereafter the development shall be retained/maintained in accordance with these details for as long as the development remains in existence.
- 4) No development, save for demolition and site clearance, shall take place until details of all materials and external surfaces, including details of balconies have been submitted to and approved in writing by the Local Planning Authority. These shall include information relating to make, product/type, colour and photographs/images. Thereafter, the development shall be constructed in accordance with the approved details and be retained as such.
- 5) No development, save for demolition and site clearance, shall take place until a landscape scheme (in general conformity with the Landscape Strategy 21075-GUA-DOC-L-001), has been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall include details of Hard and Soft Landscaping, a Car Parking Layout that includes two disabled bays and for 20% of all parking spaces to be served by electrical charging points with the remaining spaces being served by passive electrical charging points, cycle stands for 58 bicycles, boundary treatments, details of landscape maintenance and a schedule for implementation of all works, an ecological enhancement plan and full specification and design of the Green Roof. Thereafter the development shall be carried out and maintained in full accordance with the approved details.
- 6) No development shall commence until a Dust Management Plan has been submitted to, and approved in writing by, the LPA. This must demonstrate compliance with the GLA Control of Dust and Emissions from Construction and Demolition SPG (or any successor document). The development shall be carried out in strict accordance with the approved plan.

- 7) No development, save for demolition and site clearance, shall commence until a low emission strategy (LES) has been submitted to and approved in writing by the Local Planning Authority. The LES shall address but be not restricted to: 1) secure compliance with the current London Plan (March 2021), and the London Sustainable Design and construction Supplementary Planning Guidance requirements 2) a clear and effective strategy to encourage users to a) use public transport; b) cycle / walk to work where practicable; c) enter car share schemes; d) purchase and drive to work zero emission vehicles. The measures in the agreed scheme shall be maintained throughout the life of the development.
- 8) The development, excluding demolition, site clearance and initial ground investigation works, hereby permitted shall not commence until a scheme to deal with contamination has been submitted and approved by the Local Planning Authority (LPA). The scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically and in writing: (a) A desk-top study carried out by a competent person to characterise the site and provide information on the history of the site/surrounding area and to identify and evaluate all potential sources of contamination and impacts on land and water and all other identified receptors relevant to the site; (b) A site investigation, including where relevant soil, soil gas, surface and groundwater sampling, together with the results of analysis and risk assessment shall be carried out by a suitably qualified and accredited consultant/contractor. The report should also clearly identify all risks, limitations and recommendations for remedial measures to make the site suitable for the proposed use. (c) A written method statement providing details of the remediation scheme and how the completion of the remedial works will be verified shall be agreed in writing with the LPA prior to commencement. If during development or works contamination not addressed in the submitted remediation scheme is identified, an addendum to the remediation scheme must be agreed with the LPA prior to implementation; and All works which form part of the remediation scheme shall be completed and a verification report submitted to the Council's Environmental Protection Unit before any part of the development is occupied or brought into use unless the LPA dispenses with any such requirement specifically and in writing.
- 9) No development, save for demolition and site clearance, shall take place until a revised noise survey is submitted which includes details relating to mechanical ventilation impact and appropriate sound insulation details. Thereafter the development shall be carried out in strict accordance with the approved details.
- 10) No development shall proceed beyond the steel/timber/concrete superstructure (including roof structure) of the building until the principles of a Fire Statement has been submitted to and approved in writing by the Local Planning Authority (in consultation with Building Control, the Health and Safety Executive and London Fire Brigade). The statement should detail how the development proposal will function in terms of: i) the building's construction: methods, products and materials used, including manufacturers' details ii) the means of escape for all users: suitably designed stair cores, escape for users who are disabled or require level access, and associated evacuation strategy approach iii)



features which reduce the risk to life: fire alarm systems, passive and active fire safety measures and associated management and maintenance plans iv) access for fire service personnel and equipment: how this will be achieved in an evacuation situation, water supplies, provision and positioning of equipment, firefighting lifts, stairs and lobbies, any fire suppression and smoke ventilation systems proposed, and the ongoing maintenance and monitoring of these v) how provision will be made within the curtilage of the site to enable fire appliances to gain access to the building vi) ensuring that any potential future modifications to the building will take into account and not compromise the base build fire safety/protection measures. Prior to occupation of the development, the final comprehensive Fire Statement shall be submitted to and approved in writing by the Local Planning Authority and should be accompanied by the Building Control Decision Notice or equivalent. Thereafter the development shall be carried out and maintained in full accordance with the approved details.

- 11) Prior to commencement of superstructure works, the final Overheating Strategy shall be submitted to and approved in writing by the Local Planning Authority. The submission shall demonstrate how the development will reduce the potential for internal overheating and reliance on air conditioning systems in accordance with the following cooling hierarchy: 1) reduce the amount of heat entering a building through orientation, shading, high albedo materials, fenestration, insulation and the provision of green infrastructure; 2) minimise internal heat generation through energy efficient design; 3) manage the heat within the building through exposed internal thermal mass and high ceilings; 4) provide passive ventilation; 5) provide mechanical ventilation; and 6) provide active cooling systems. The approved details shall thereafter be implemented and retained in perpetuity.
- 12) Prior to the commencement of works on site, a Construction Management and Logistics Plan shall be submitted to and approved in writing by the Local Planning Authority This plan shall detail: (i) The phasing of the works; (ii) The hours of work; (iii) On-site plant and equipment; (iv) Measures to mitigate noise and vibration; (v) Measures to mitigate impact on air quality; (vi) Waste management; (vii) Site transportation and traffic management, including: Routing; Signage; Vehicle types and sizes; Hours of arrivals and departures of staff and deliveries (avoiding peaks times of day); Frequency of visits; Parking of site operative vehicles; On-site loading/unloading arrangements; and Use of an onsite banksman (if applicable); (viii) The arrangement for monitoring and responding to complaints relating to demolition and construction. This plan should accord with Transport for London's Construction Logistic Planning Guidance and the GLA's 'The Control of Dust and Emissions during Construction and Demolition' Supplementary Planning Guidance (July 2014) (or any successor document). The construction works shall be carried out in strict accordance with the approved plan.
- 13) Prior to above ground works, save for demolition and site clearance, full details of the low and zero carbon technology shall be submitted to and approved in writing by the Local Planning Authority. The details shall identify the specific "be clean and be green" (as set out in the London Plan energy assessment guidance) technology, where it is located in the

development, its efficacy (i.e. the reduction in CO<sub>2</sub>), maintenance details, and plans and specifications (including elevations and roof plans where appropriate). The details shall be accompanied by a reporting mechanism (Be Seen) to demonstrate that the development will continue to comply with the energy reduction targets set out in the energy strategy (XCO<sub>2</sub>, March 21). The development must proceed in accordance with the approved details.

- 14) The dwellings shall achieve 'Secured by Design' accreditation awarded by the Hillingdon Metropolitan Police Crime Prevention Design Adviser (CPDA) on behalf of the Association of Chief Police Officers (ACPO). No dwelling shall be occupied until accreditation has been achieved.
- 15) The development hereby approved shall ensure that 10% (4 units) of the residential units are constructed to meet the standards for M4(3)(2)(a) Wheelchair Adaptable Standard dwelling with a floor plan at no less than 1:100 submitted for each of the different M4(3) units and agreed in writing by the Local Planning Authority. All details, to include transfer zones, wheelchair storage area, and other spatial requirements within bedrooms, bathrooms, living and dining areas, should be shown on a separate plan for every different unit type. All remaining units designed to the standards for Category 2 M4(2) dwelling, as set out in Approved Document M to the Building Regulations (2010) 2015, and all such provisions shall remain in place for the life of the building.
- 16) All windows indicated on the approved plans as being obscure glazed shall be obscure with permanently obscured glass to at least scale 4 on the Pilkington scale and be non-opening below a height of 1.8 metres taken from internal finished floor level for so long as the development remains in existence. Notwithstanding the approved drawings and prior to commencement of development above ground level (excluding demolition, site clearance and initial ground investigation works), details of privacy measures to windows serving living rooms and facing Yardley Court shall be submitted to and approved in writing by the LPA. The measures shall be implemented in accordance with the agreed details prior to the occupation of the respective units and thereafter shall be permanently retained/maintained.
- 17) The residential units hereby approved shall not be occupied until a parking allocation scheme and maintenance plan for the car parking stacker has been submitted to, and approved in writing by, the Local Planning Authority. The parking allocation scheme shall, as a minimum, include a requirement that all on-site car parking shall be allocated and dedicated for the use of each of the residential units hereby approved and shall remain allocated and dedicated in such a manner for the life-time of the development.
- 18) No development, save for demolition and site clearance, shall take place until plans of the site showing the existing and proposed ground levels and the proposed finished floor levels of all proposed buildings have been submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed and known datum point. Thereafter the development shall not be carried out other than in accordance with the approved details.

### **End of conditions**