



## Appeal Decision

Hearing held on 8 January 2020

Site visit made on 8 January 2020

by Joanna Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2020

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Appeal Ref: APP/V5570/W/19/3222842

2A Grenville Works and 500-502 Hornsey Road, Grenville Road, Islington, London N19 4EH.

- 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 Grenville Northside against the decision of the Council of the London Borough of Islington.
  - The application Ref P2017/3242/FUL, dated 17 August 2017, was refused by notice dated 16 August 2018.
  - The development proposed is demolition of existing buildings and erection of a part 3 storey part 4 storey building to provide commercial units at ground floor, 16 residential units above (2x1 beds, 11x2 beds and 3x3 beds, Use Class C3) on the north site and a 4 storey building to provide commercial units on the south site, with on street servicing and associated cycle parking, refuse storage, plant, landscaping and engineering works.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings and erection of a part 3 storey part 4 storey building to provide commercial units at ground floor, 16 residential units above (2x1 beds, 11x2 beds and 3x3 beds, Use Class C3) on the north site and a 4 storey building to provide commercial units on the south site, with on street servicing and associated cycle parking, refuse storage, plant, landscaping and engineering works at 2A Grenville Works and 500-502 Hornsey Road, Grenville Road, Islington, London N19 4EH in accordance with the terms of the application, Ref P2017/3242/FUL, dated 17 August 2017, subject to the attached schedule of 35 conditions.

### Procedural Matters

2. Concerns were raised in relation to the number of objections recorded in the **Council's committee report and the provision of** those representations to the **Council's Planning Committee**. It appears that I have all representations before me in reaching my decision.
3. The application proposal was presented at the Islington Design Review Panel (IDRP) on 16 February 2018. The proposal was amended following the IDRP, but the amended scheme was not reviewed by the IDRP prior to Planning Committee. The IDRP procedure is a matter for the Council and local residents to discuss outside the appeal process.

4. The Council did not undertake re-consultation on the amended scheme. However, the interested parties representing the Local Residents' Group who were present at the hearing were fully aware of the amended scheme determined by the Council. I consider therefore that interested parties were not disadvantaged by my consideration of the scheme determined by the Council.
5. Prior to the hearing, I made an unaccompanied site visit in December 2019 to Grenville Road, 469 Hornsey Road and 202 – 210 Fairbridge Road, the Timbuktu Adventure Playground, and Grenville Gardens. Although I received requests to visit Nos 2, 6, 13, 15, 16, 23 and 38 Grenville Road during the hearing site visit, interested parties at the hearing were content for me to view the site from 2 Grenville Road only during the hearing site visit.
6. The Local Residents' Group provided a presentation and audio evidence at the hearing, which included recordings of a church service, Bank Holiday weekend drilling, and large delivery lorries at the south site. As the audio evidence was audible to all hearing participants, I allowed the evidence to be played.
7. I have been provided with a Statement of Common Ground (SOCG) dated 4 November 2019 and signed by both main parties on 5 November 2019, to which I have had regard in determining this appeal.
8. A signed legal agreement under Section 106 of the Town and Country Planning Act 1990 dated 19 February 2020 was submitted. I have taken this into account in reaching my decision.
9. Reference was made at the hearing to the Islington Local Plan, which was recently submitted to the Secretary of State for examination, and the emerging London Plan, which has not yet been adopted. The parties noted at the hearing that limited weight should be given to these policies in this instance.

#### Main Issues

10. The main issues in this appeal are:
  - a) The effect of the proposed development on the character and appearance of the area; and
  - b) Whether the proposal would make adequate provision for affordable housing, parking, servicing and waste storage, and other policy requirements.

#### Reasons

##### *a) Character and appearance*

11. The appeal relates to two sites on **Grenville Road's** north and south sides at or close to the junction with Hornsey Road, referred to throughout this decision as the north site and the south site. The buildings on the north and south sites are simple and functional, brick or rendered flat-roofed, early to mid 20th century commercial blocks. Both buildings house light industrial and office uses and lie within an Employment Growth Area, where permitted development rights for change of use to residential and town centre uses have been removed.
12. At the corner of Grenville Road and Hornsey Road, the north site at 500 - 502 Hornsey Road comprises a primarily two-storey building with a three-storey stair and lift tower. It adjoins a railway line to the north-west and two to three-storey flats and two-storey terraced houses to the north-east. Set slightly away

- from the street corner, the south site at 2A Grenville Road is a tall two-storey building bounded to the south-west by commercial/residential properties on Hornsey Road, and by residential properties to the north-east and south-east on Grenville Road and Hanley Road. The south side of Grenville Road mainly consists of two or three-storey terraced and semi-detached housing.
13. While housing on Grenville Road generally dates from the late 19<sup>th</sup> or early 20<sup>th</sup> centuries, there are modern flatted developments at Francis Court, and near Grenville Gardens and the Timbuktu Adventure Playground. Hornsey Road is more diverse, with large blocks on large plots interspersed with modern housing development and three to four-storey terraced buildings on narrow plots. Some buildings on **Hornsey Road's** north-eastern side have shopfronts, with upper storeys set back. The sites are not located within a conservation area and there are no listed buildings on or adjoining them.
  14. Materials along both Grenville Road and Hornsey Road are mixed, with red brick, render, and cladding. Rooflines and architectural features are varied on Hornsey Road, with some front and side gables, different roof pitches and treatments. Apart from the buildings on the north and south sites, Grenville Road's properties generally have pitched roofs. Given the variation in age and architectural style, there is fenestration of different designs and proportions locally, with more consistency exhibited in residential development than in commercial buildings. Buildings also vary in their relationship to streets, with many buildings on Hornsey Road hard up against the footway, while residential properties on Grenville Road are set back from the street behind front gardens.
  15. The proposed building on the north site would front Hornsey Road and Grenville Road. It would be four storeys high and would have ground floor business units and 16 residential units on the upper three floors, some of which would have deck access. The building would be taller than the existing building and buildings on Grenville Road, but in the context of the nearby buildings of similar height on Hornsey Road, Spears Road and Fairbridge Road, it would not be incongruous and the transition between the proposed north site building and its only immediate neighbour at Francis Court would be very similar to the existing transition between buildings.
  16. **The north site's** Hornsey Road elevation would be punctuated with large windows with a consistent rhythm, glazed doors with balconies, and some more irregular smaller windows. The larger ground floor fenestration on the Hornsey Road elevation would be repeated by the arrangement of larger and smaller windows above on the first and second floors.
  17. Though the Council points to an interpretation of balconies at Darbshire Place, Whitechapel, the inset balconies would provide variation and visual interest within the Hornsey Road elevation and would echo the balcony treatments at each end of the Hornsey Road elevation. The Council has questioned the appearance and likely use of balconies giving rise to visual clutter. I consider that this matter could be appropriately addressed by means of condition.
  18. While the pilasters rising from the ground floor of the Hornsey Road elevation could be more obvious, they would be carried through the building both in the consistent brickwork and in the positioning of the majority of the windows. There may be other design approaches which could have been employed to address the proposed north site building's **fenestration** as noted in examples provided by the appellant, the Council and the Local Residents' Group,

including the development underway at 202 – 210 Fairbridge Road, and I recognise the concerns expressed regarding a disordered façade. However, given the mixed character of Hornsey Road, I consider that there would be sufficient repetition of fenestration to ensure it would not be haphazard, cluttered or uncharacteristic of the area.

19. Apart from the Hornsey Road corner, the proposed north site building would be sited to the back of the footway on the same building lines as the existing buildings on the site. The Grenville Road elevation of the north site would be more consistent with large windows interspersed with glazed doors and balconies, echoing the vertical rhythm of bays along Grenville Road. The set-back top floor on Grenville Road would be clad in metal with windows aligned with those below. This would have a logical fenestration pattern which would echo and transition well with the residential development along Grenville Road.
20. The **Council's reason for refusal refers to** design of a residential character. Although the south site would be occupied by commercial uses, only the north site's **ground floor** would be occupied by commercial uses and there would be residential uses above. As a result, the proposed development on the north site would be honest in representing a development of residential character on the upper floors. The street frontages at ground floor level would be of appropriate scale and activity to represent the uses at ground floor level and would have no greater effect on the streetscene than the existing buildings.
21. The proposed south site building would be four storeys high on the Grenville Road frontage and would step down to three and two storeys towards the rear of the site. Although the proposed south site building would be of a greater height than the existing building, it would not be considerably taller than neighbouring houses on Grenville Road. Additionally, while the gap between the existing building and 2 Grenville Road would largely disappear, the buildings at 2 – 8 Grenville Road are three-storey large terraced buildings and can, in my view, accommodate the transition between buildings.
22. The proposed south site building's **front elevation** would have a strong vertical emphasis with brick piers separating fenestration, giving the appearance of a repeated pattern of individual units within a larger building. This would reflect the character and vertical rhythm of houses on Grenville Road and would be appropriately articulated. The third floor would be set back on the roof responding to the height of the roofscape and the height of the eaves of the neighbouring houses on Grenville Road. Though the windows at roof level on the south site would be less well-proportioned, windows would be consistently proportioned across first and second floors, respecting the consistency of proportions of adjacent Victorian housing. Though unbroken, the proposed south site building's **roofscape** would be pitched, echoing the factory building at 465c Hornsey Road. Overall, I consider that the proposed south site building would be appropriate in scale, massing and detailed design for its context.
23. In terms of storey heights, while there is a difference in storey heights between the proposed development and the neighbouring buildings, this is most obvious on the proposed north site building, where there is already a difference between the storey heights in the existing building and storey heights in neighbouring residential properties. I consider that this would not on its own or in combination prove harmful.

24. The proposed development would be contemporary in appearance. Given their architectural differences from older buildings on Grenville Road and given the presence of stretcher bond brickwork on other modern buildings in Grenville Road, I consider that the proposed stretcher bond brickwork would not be harmful. Matters relating to the overall build quality of the proposed development would be addressed by means of a condition on materials. Reference has been made to an appeal<sup>1</sup> at Bangor Wharf in nearby Camden. However, it appears to me that the context of the two sites is quite different. I therefore give it limited weight in reaching my decision.
25. Concluding on this main issue, the proposed development would not harm the character and appearance of the area. Consequently, it would be compliant with Section 12 of the National Planning Policy Framework (the Framework), Policies 7.4, 7.5, 7.6 and 7.7 of the London Plan 2016 (LP); Policy CS8 of Islington Core Strategy 2013 (CS); Policy DM2.1 of the Islington Development Management Policy 2013 (DMP) and the Islington Urban Design Guide Supplementary Planning Document 2017 (IUDGSPD). These policies aim to achieve a high quality of design, complementing and making a positive contribution to the character of existing built areas, while Section 12 of the Framework deals with achieving well-designed places. The IUDGSPD provides guidance on how urban design principles should be applied to ensure that new development successfully contributes to making the borough a better place.
- b) Whether the proposal would make adequate provision for affordable housing, parking, servicing and waste storage, and other policy requirements*

*Affordable housing*

26. When the application was refused by the Council, no provision was made by the appellant for affordable housing due to viability issues. The proposed development had been recommended for approval on the basis that it was acceptable without on-site affordable housing provision, but with a review mechanism within a S106 agreement to capture any additional uplift in value.
27. Subsequently, the SOCG confirms that the main parties agree to an off-site contribution towards affordable housing provision in the borough subject to the execution of a S106 agreement. It was the intention that the S106 agreement would secure, amongst other things, £155,000 towards affordable housing, and a review mechanism during the implementation of development to allow for further financial contributions towards off-site affordable housing if a surplus was identified. During the hearing on 8 January 2020, the Council advised that the advanced stage review contribution formula (ASRCF) proposed by the appellant as part of the S106 agreement would not be appropriate. At my request, I received position statements from both main parties setting out their rationale for their relevant ASRCF and two draft S106 agreements setting out the separate ASRCF approaches on 30 January 2020. I then requested that the **Council's version of the S106 agreement should be completed.**
28. Supporting paragraph 57 of the Framework which deals with viability, the Planning Practice Guidance<sup>2</sup> confirms that review mechanisms are not a tool to

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<sup>1</sup> APP/X5210/W/16/3165200, decision issued 10 January 2018.

<sup>2</sup> Paragraph 10-009-20190509

protect a return **to the developer, but to strengthen local authorities' ability to seek compliance with relevant policies over the lifetime of the project.**

29. LP Policy 3.10 defines affordable housing, while LP Policy 3.11 requires affordable housing provision to be maximised. LP Policy 3.12, amongst other things, refers to negotiations on sites taking account of their individual circumstances including development viability and other scheme requirements. It also states that affordable housing should normally be provided on-site. LP paragraph 3.75 also **states that: "In making arrangements for assessing planning obligations, boroughs should consider whether it is appropriate to put in place provisions for re-appraising the viability of schemes prior to implementation. To take account of economic uncertainties, and in respect of schemes presently anticipated to deliver low levels of affordable housing, these provisions may be used to ensure that maximum public benefit is secured over the period of the development."**
30. CS Policy CS12 seeks to provide more high quality, inclusive and affordable homes by, amongst other things, requiring that 50% of additional housing to be built over the plan period should be affordable; requiring all sites capable of delivering 10 or more units to provide affordable homes on-site; and seeking the maximum reasonable amount of affordable housing from private residential and mixed-use schemes over the threshold set above.
31. **The Council's Planning Obligations (Section 106)** Supplementary Planning Document 2016 (POSPD) states that in order to ensure that the maximum reasonable level of affordable housing is provided in line with LP Policy 3.12 and CS Policy CS12, viability review mechanisms will be secured through S106 agreements. **The Council's Development Viability Supplementary Planning Document 2016 (DVSPD)** sets out viability review mechanisms for different development process stages. The outcome of an advanced stage review, where a surplus is established, will typically consist of a financial contribution towards off-site affordable housing provision. Any additional obligations are capped based on policy requirements, including the 50% strategic affordable housing target. The DVSPD sets out the ASRCF at Formula 3<sup>3</sup>, though in this case there is an additional part<sup>4</sup> to the formula as a result of the appellant having already committed to providing £155,000 towards affordable housing.
32. The appellant considers that the use of DVSPD Formula 3 would not be appropriate as no on-site affordable housing provision would be made. However, the DVSPD **at paragraph 7.22 confirms that the council's intended approach is to set out a clear basis for calculating the level of any additional requirements that could viably be provided while recognising that in some instances adjustments to the calculations may be warranted according to the circumstances of a specific proposal.** In this particular case, the Council has sought to make a reasonable adjustment to the formula to account for the monies already committed by the appellant towards affordable housing.
33. The appellant also contends that it is not appropriate for mixed development comprising both residential and commercial development without on-site affordable housing **to be dealt with using the Council's ASRCF approach in the DVSPD's Formula 3.** However, the DVSPD at paragraph 7.5 requires viability review mechanisms through S106 agreements on all major residential/mixed

<sup>3</sup> 'Contribution' = ((A + B - C) - (D + E - F)) x 0.60

<sup>4</sup> 'Contribution' = ((A + B - C) - (D + E - F)) x 0.60 - X. X in this instance is £155,000.

use applications which do not meet the strategic affordable housing target; and for all major applications where policy requirements are not met in full at the time permission is granted. This is further confirmed at **the DVSPD's** footnote 77 to paragraph 7.26 with regard to advanced stage reviews. Based on all I have read and heard, I can see no reason why the standard approach in the DVSPD should not be used for mixed use development where on-site provision of affordable housing would not be made.

34. The ASRCF's **purpose** is to measure changes in key inputs **of the development's** Gross Development Value and construction costs between the application stage or appeal stage viability assessment, where relevant, and the trigger point for the review mechanism. Costs such as residualised land price, Community Infrastructure Levy (CIL), and planning obligations will have been factored in. There is therefore little justification to deviate from the **Council's** approach.
35. Local residents have raised concerns about the balance to be sought between the Employment Growth Area designation and its effect on maintaining provision of B1 accommodation and the quantum of higher value residential provision on site with restrictions **on its scale given the site's** context. However, it is my responsibility to deal with the scheme refused by the Council, rather than seeking to alter that proposal. While I note reference to the Parkhurst Road appeal<sup>5</sup>, the need to focus on the cost of provision, and the anticipated rates of return yield on investment in construction of the dwellings as a separate element within the combined scheme, I must consider the proposed development in line with the requirements of the DVSPD.
36. Concluding on this part of the main issue, the proposed development would make adequate provision towards affordable housing. This would be consistent with the Framework, LP Policies 3.10, 3.11 and 3.12, CS Policy CS12, and the Council's POSPD and DVSPD. The content of these policies and supplementary guidance is set out above. Furthermore, the provision of £155,000 towards affordable housing provision and the requirement to enter into an ASRCF would meet the three tests for obligations set out in Regulation 122 (2) of the CIL Regulations 2010 and paragraph 56 of the Framework. DMP Policy DM2.1 was referred to in the reason for refusal. As it does not deal with affordable housing, I have not considered this policy relevant here. It does not change my findings on the other policies.

#### *Parking, servicing and waste storage*

37. Grenville Road lies within a controlled parking zone with double yellow lines. Vehicles over 7.5 tonnes are banned from using the road, except for access. Both the north and south sites have vehicular accesses to the rear and have forecourts used for parking and storage.
38. The SOCG indicates that the Council does not intend to contest the third reason for refusal which relates to highways matters, dependent on the provision of a Delivery and Servicing Management Plan (DSMP) and details of commercial refuse storage arrangements being secured by condition. Condition 8 requires the provision of a DSMP, including a Waste Management Plan with details of commercial refuse storage, to be submitted to and approved in writing by the Local Planning Authority.

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<sup>5</sup> APP/V5570/W/16/3151698, decision issued 19 June 2017.

39. **In addition to future occupiers' lack of eligibility for residents' parking permits, local residents' concerns would be addressed by means of conditions on management of the highway access to the site during construction and during occupation for residential and commercial purposes, including the DSMP.** Furthermore, surfacing would be addressed by a condition requiring repair and reinstatement of footways and highways.
40. While local residents have sought changes to the road layout via the S106 agreement to calm traffic and discourage larger vehicles from using Grenville Road, there is limited evidence of the need for such works. Notwithstanding concerns about risks to children going to school or using Grenville Road Gardens or the Timbuktu Adventure Playground, the proposed development includes employment uses within a designated employment area close to a busy main road, where it is to be expected that vehicles will be turning.
41. Concluding on this part of the main issue, the proposed development would make adequate provision for on-site servicing, waste storage, operational parking, collections and deliveries and would not cause unacceptable harm to parking, pedestrian and highway safety. It would therefore be compliant with CS Policy CS11 and DMP Policies DM5.1, DM8.2, DM8.5 and DM8.6.
42. CS Policy CS11 requires, amongst other things, that developments provide accessible and appropriate waste and recycling facilities. DMP Policy DM5.1 states that, within Employment Growth Areas, proposals for redevelopment of existing business floorspace should have the maximum amount of business floorspace reasonably possible, and comply with other relevant planning considerations. DMP Policy DM8.2 requires the transport needs and impacts of development to be met, including delivery, servicing and drop-off requirements. DMP Policy DM8.5 deals with vehicle parking, while DMP Policy DM8.6 addresses delivery and servicing. The London Plan Land for Industry and Transport Supplementary Planning Guidance 2012 and CS Policy CS13 were referred to in the reason for refusal, but do not appear to be directly relevant in this instance. They do not change my findings on the other policies.

#### *Other policy requirements*

43. In addressing a range of policy and infrastructure requirements, a signed and executed S106 agreement was submitted. In addition to addressing the affordable housing contribution and ASRCF discussed above, the S106 agreement provides for an accessible parking contribution of £4,000; a carbon offset contribution of **£82,332.64; an agreement to comply with the Council's Code of Construction Practice** and a related monitoring fee of £1,102; agreements to comply with the **Council's Code of Local Procurement**, Employment and Training Code and Green Performance Plan; provision for future connection to any Local Energy Network provided to the **site's** boundary; restrictions on **residents'** car-parking permits; and a travel planning requirement to provide the occupiers with sustainable transport information.
44. Having assessed the S106 agreement against the **Council's** Statement of Compliance with CIL Regulation 122. I am satisfied that each of the requirements within the S106 agreement would be supported by LP, CS or DMP policy as amplified by relevant supplementary guidance, and that they would meet the three tests for obligations set out in CIL Regulation 122 (2) and paragraph 56 of the Framework. I have therefore taken all the obligations within the S106 agreement into account in determining this appeal.



45. Concluding on this part of the main issue, the proposed development would make adequate provision for other policy requirements by means of the S106 agreement. Accordingly, it would be compliant with CS Policy CS18, DMP Policy DM9.2, and **the Council's POSPD**. CS Policy CS18 and DMP Policy DM9.2 require contributions and obligations to ensure that infrastructure needs associated with development are provided and to mitigate the impact of development. The POSPD **provides further detail and explanation of the Council's policies on** planning obligations. LP Policy 6.9 was referred to in the reason for refusal, but does not appear to be directly relevant to planning obligations. It does not change my findings on the other policies.

#### *Other Matters*

46. The proposed development would include B1(a), B1(b), and B1(c) and would be restricted to B1 use class by means of condition. Although local residents have raised concern about the lack of specificity on future commercial occupiers, the proposed development would provide scope for a range of unit sizes, including specific space for micro and small businesses as restricted by condition. Notwithstanding concerns of interested parties about the lack of need for new buildings within the Hornsey Road Employment Area and a previous application P2016/1642/FUL for a different scheme which was refused, I am required to deal with this appeal on its own merits. With regard to the long-term ownership of the site, this is not a matter for the appeal process.
47. Concern has been raised about the effect of the proposed development on light, outlook and privacy on neighbouring properties, with particular reference to 2 Grenville Road adjacent to the south site. Reference has also been made to the effect on 494 – 498b Hornsey Road in relation to light.
48. The appellant has undertaken the Vertical Sky Component test (VSC) in line with the Building **Research Establishment's Site layout planning for daylight and sunlight: A guide to good practice (Second Edition) 2011**. The Hornsey Road properties closest to the south site house a mix of commercial and residential uses. The majority of windows to the Hornsey Road properties would meet the VSC test and only one half glazed door at No 496 would fail the VSC. As this property is commercial in nature and lit by other windows, I consider that this would be acceptable.
49. With regard to No 2, a three-storey house with a single-storey rear extension and conservatory extension, all windows would meet the VSC test. Although the rooflight to the conservatory has not been tested, the windows to the rear of the conservatory would pass the VSC test. Accordingly, any effect on the rooflight would not be significant. The existing south site building has an effect on sunlight to the garden of No 2, particularly in the afternoon or evening dependent on the time of year. The proposed development would be set back from the shared boundary with No 2 for the majority of its length. The change in height and footprint at the rear of the south site would be relatively minor and would not have a significant effect on sunlight to the garden of No 2. The element of the proposed building closest to the flank wall of No 2 would have a greater effect than the existing building on sunlight to the garden of No 2 towards the end of the day, but any shadowing to the garden of No 2 would be interrupted by the existing conservatory extension. With regard to daylight distribution testing, the variation in VSC is very limited and the windows would

not directly face the proposed development. Therefore, I am satisfied that the levels of light to windows at No 2 would not be adversely affected.

50. With regard to outlook, there would be a sense of enclosure resulting from the proposed development. However, this would only be particularly apparent looking towards the rear of No 2 from its rear garden. Views from the rear of the house and down the garden towards Hanley Road would be broadly similar to the existing situation, given the bulk and siting of the existing building.
51. In terms of privacy, while there would be windows to the upper floors of the proposed south site building facing the garden of No 2, many of these windows would not alter the existing situation for the worse as although it would be closer to No 2 than the existing building, most of the windows would be high level. In the case of the proposed first floor window for the commercial unit facing the rear of No 2, this would be around 24 metres from the main rear wall at No 2. I consider that this distance would be sufficient to limit effects on No 2 in terms of overlooking. With regard to the first and second floor windows and door at ground floor level towards the rear corner of the proposed building, there would only be direct views of the rear part of the garden and only angled views towards the house and garden closest to the house. In an urban location such as this, it is likely that there will often be a degree of overlooking. In this instance, and when taken with condition 14 on glazing and screening, I find **that the proposed development's** upper floor windows would be a sufficient distance from **No 2's** rear elevation to allow privacy to be maintained for existing and future occupiers.
52. I recognise local residents' disquiet about noise, fumes, disturbance and congestion. Any rooftop plant, including air source heat pumps, would be addressed by submission of information via condition. Any noise and congestion during construction would also be dealt with by condition. With regard to ventilation to proposed single-aspect flats to Hornsey Road resulting in noise issues for future occupiers, a condition would be imposed.
53. I have considered Article 8 of the Human Rights Act 1998 regarding respect for private and family life. As the proposed development would not cause harm to the living conditions of neighbouring occupiers, there would be no interference with the rights under Article 8.
54. Interested parties have commented on the effect of the proposed development on biodiversity. The current buildings and surrounding hardstanding have little or no ecological value. The proposed development would enhance biodiversity through both its landscaping scheme and through the provision of green and brown roofs. Although reference has been made to financial contributions towards community provision, I have limited evidence before me on this issue.

#### Conditions

55. I have considered the conditions in light of the Planning Practice Guidance and the Framework. I have reworded, amalgamated or separated some conditions in the interests of clarity and consistency. The appellant agreed to the pre-commencement conditions in writing. Any numbers in brackets refer to condition numbers.
56. It is necessary to specify conditions confirming the time limit for development (1), approved plans (2) to ensure certainty and require approval of materials

- (10), roof-level structures (13), green/brown roofs (16), and hard and soft landscaping (17) in the interests of visual amenity. The latter two conditions would also enhance biodiversity. Bearing in mind the importance of biodiversity and visual amenity, I have also required protection of retained trees (7). A condition is necessary to restrict additional cabling and piping in order to maintain visual amenity (26), while the visual interest of the streetscene would be maintained by a condition restricting the obscure glazing/painting of ground floor windows to commercial units (33).
57. Green/brown roof details (16) do not need to be submitted prior to commencement of development as they are not necessary to prevent ground preparation works occurring. Conditions 3 – 9 are pre-commencement conditions as they should be addressed before construction works begin.
58. The conditions requiring provision of a Construction and Environmental Management Plan (CEMP)(3) and a DSMP(8), including a Waste Management Plan (WMP), are necessary to safeguard the living conditions of nearby residential occupiers and to ensure highway safety. The CEMP would require routing of vehicles to be approved by the Council following consultation, while the DSMP condition would deal with the size of vehicles, any restrictions on location of deliveries, and the timing of deliveries. It is not unusual for such CEMP to be drafted by or in consultation with construction companies. Condition 9 necessarily restricts development from commencing until Section 278 agreements have been entered into with the Council and Transport for London to ensure any repair and reinstatement of footways and highways in the interest of highway and pedestrian safety.
59. To ensure the implementation of appropriate drainage, a condition (6) has been imposed to ensure that the proposed development does not have a detrimental effect on drainage in the locality. In order to preserve the living conditions of neighbouring occupiers, conditions on screening/obscure glazing of windows on the upper floors of the south site, external lighting, and operating hours for B1 uses are imposed (14, 22, 28 and 29). In the event that the amenity space on the south site were to be used improperly by tenants, this could be addressed by the Council in their environmental health function.
60. I have attached conditions on noise, anti-vibration treatment, insulation, and plant (4, 11, 12, 32, and 35) in the interests of the living and working conditions of future occupiers of the proposed development and neighbouring occupiers. Condition 35 would be engaged if, for example, a complaint was received in relation to plant noise. A sound measurement would be undertaken with the plant switched off to establish the background noise level and with the plant switched on at 1m from the external façade of a noise sensitive premises, such as the nearest residential dwelling. If the measured noise exceeds the limit specified in the condition, the Council could pursue enforcement action. While I recognise the concerns of local residents with regard to noise and positioning of roof-top plant, I consider that the conditions would be reasonable. Due to the previous land uses on the north and south sites and in order to ensure the safety of future occupiers, it is also necessary to have a condition addressing land contamination (5).
61. In the interests of ensuring accessibility, conditions on lifts, accessibility of B1 floorspace, and access requirements M4(2) and M4(3) for residential units (20, 23 and 25) are necessary. Given the importance of ensuring energy efficiency,

addressing climate change and sustainable design and construction, conditions are necessary to ensure implementation of measures within the Energy and Sustainability Statement (18), solar photovoltaic panels (19), refuse and recycling (21), water usage (30), and adherence to BREEAM (31). In supporting access by sustainable transport modes, I have imposed a condition on cycle storage (15).

62. Conditions are also necessary to maintain the level of B1 floorspace by restricting the commercial use to B1 use class only (34) and to specify the level of B1(c) floorspace to be provided (27), and to ensure floorspace for micro and small enterprises (24).

### Conclusion

63. For the above reasons, and having had regard to all other matters raised, the appeal is allowed.

*Joanna Gilbert*

INSPECTOR

### SCHEDULE OF 35 CONDITIONS

- 1) The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans:  
  
4022-X.01; 4022-X.405\_A; 4022-X.406; 4022-X.410; 4022-X.505\_A; 4022-X.506; 4022-X.510; 4022-X.515\_A; 4022-X.605; 4022-X.606; 4022-X.610; 4022-X.615; 4022-P.405\_B; 4022-P.406\_A; 4022-P.407\_A; 4022-P.408\_A; 4022-P.410\_A; 4022-P.415\_A; 4022-P.505\_B; 4022-P.506\_A; 4022-P.507\_A; 4022-P.508\_A; 4022-P.510\_A; 4022-P.515\_B; 4022-P.516\_A; 4022-P.517\_A; 4022-P.520\_A; 4022-P.521; 4022-P.605\_A; 4022-P.606\_A; 4022-P.607\_A; 4022-P.608\_A; 4022-P.610\_A; 4022-P.615\_A; 4022-P.616\_A; 4022-P.617\_A; 4022-P.620\_A; 4022-P.621; JKK8918 - RPS-Figure 01.01; JKK8918 - RPS-Figure 02.01 Rev A.
- 3) Notwithstanding the details submitted with the application, prior to the commencement of development, a Construction and Environmental Management Plan (CEMP) shall be submitted to the Local Planning Authority and shall be the subject of a 21 day consultation in writing with all neighbouring residents who were consulted under planning application ref. P2017/3242/FUL. The CEMP shall be approved in writing by the Local Planning Authority prior to the commencement of development. The CEMP shall include details and arrangements regarding:
  - a) The notification of neighbours with regard to specific works;
  - b) Advance notification of any access way, pavement, or road closures;
  - c) Details regarding parking, deliveries and storage including details of the routing, loading, off-loading, parking and turning of delivery and construction vehicles and the accommodation of all site operatives', visitors' and construction vehicles during the construction period;

- d) Details regarding the planned demolition and construction vehicle routes and access to the site;
- e) Details regarding dust mitigation and measures to prevent the deposit of mud and debris on the public highway. No vehicles shall leave the site until their wheels, chassis and external bodywork have been effectively cleaned and washed free of earth, mud, clay, gravel, stones or any other similar substance;
- f) Details of waste storage within the site to prevent debris on the surrounding estate and the highway and a scheme for recycling/disposing of waste resulting from demolition and construction works;
- g) The proposed hours and days of work (with reference to the limitations of noisy work which shall not take place outside the hours of 0800 - 1800 Monday to Friday, 0800 - 1300 on Saturdays, and at no time on Sundays or Bank Holidays);
- h) Details of any proposed external illumination and/or floodlighting during construction, including positions and hours of lighting;
- i) Details of measures taken to prevent noise disturbance to surrounding residents;
- j) Information on access and security measures proposed to prevent security breaches at the existing entrances to the site, to prevent danger or harm to the neighbouring residents, and to avoid harm to neighbour amenity caused by site workers at the entrances to the site;
- k) Details addressing environmental and amenity impacts (including, but not limited to, noise, air quality, smoke and odour, vibration and TV reception);
- l) Details as to how safe and convenient vehicle access will be maintained for all existing vehicle traffic using surrounding roads including Grenville Road and Hornsey Road at all times, including emergency service vehicles;
- m) Details of any construction compound including the siting of any temporary site office, toilets, skips or any other structure;
- n) Details of any further measures taken to limit and mitigate the impact of construction upon the operation of the highway and the amenity of the area; and
- o) Details of measures taken to minimise the impacts of the construction process on air quality, including non-road mobile machinery (NRMM) registration.

The CEMP shall assess the impacts during the preparation/demolition, excavation and construction phases of the development on the surrounding roads, together with means of mitigating any identified impacts. The CEMP shall also identify other local developments and highways works, and demonstrate how vehicle movements would be planned to avoid clashes and/or highway obstruction on the surrounding roads. The demolition and development shall thereafter be carried out in accordance with the approved details and measures.

- 4) Prior to the commencement of development, a scheme for noise and anti-vibration treatment of the foundations and services shall be submitted to and approved in writing by the Local Planning Authority, and shall be implemented in accordance with the approved scheme to achieve internal vibration levels **which shall not exceed the category of "low probability of adverse comment" in Table 1 of Appendix A of BS 6472: 2008.**

- 5) Prior to the commencement of development, details of land contamination remediation works shall be submitted to and approved in writing by the Local Planning Authority as follows:
  - a) A programme of any necessary land contamination remediation works arising from the land contamination investigation within the Contaminated Land Preliminary Risk Assessment by Terragen. The development shall be carried out in accordance with the investigation and any approved scheme of remedial works.
  - b) Following completion of measures identified in the approved remediation scheme, a verification report, that demonstrates the effectiveness of the remediation carried out, must be produced which is subject to the approval in writing of the Local Planning Authority and is in accordance with part a) of this condition.
- 6) Prior to the commencement of development, a drainage strategy including full justification for any non-compliance with the requirements of Islington Development Management Policy DM6.6 and London Plan Policy 5.13, and confirmation that best endeavours have been made to comply with these policies, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved drainage strategy and shall be maintained thereafter.
- 7) Prior to the commencement of development (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837: 2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) including details of all tree protection monitoring and site supervision shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in accordance with the approved details.
- 8) Prior to the commencement of development, a Delivery and Servicing Management Plan (DSMP), including a Waste Management Plan (WMP), shall be submitted to the Local Planning Authority and shall be the subject of a 21 day consultation in writing with all neighbouring residents who were consulted under planning application ref. P2017/3242/FUL. The DSMP including WMP shall be approved in writing by the Local Planning Authority prior to the first occupation of the development. The DSMP shall include details of the following:
  - a) sizes of vehicles which will service the development;
  - b) how parking / traffic on the forecourt would be managed;
  - c) servicing and delivery requirements;
  - d) details of how waste (including recyclable waste) would be transferred and collected; and
  - e) the timings of all deliveries and collections from service vehicles.

The WMP shall include details of arrangements for on-site storage of commercial waste. The development shall be carried out in accordance with the approved DSMP and WMP and shall be maintained thereafter.

- 9) The development shall not commence until the applicant has entered into Section 278 agreements with Transport for London (TfL) and with the Council to secure any repair and reinstatement of the footways and highways adjoining the development. The agreement with TfL will relate to Hornsey Road and the

agreement with the Council will relate to any other roads adjoining the development to be used by construction traffic. The reasonable costs are to be confirmed by TfL and the Council and paid for by the applicant and the work carried out by TfL and the Council, unless otherwise advised in writing by TfL and the Council. You are advised that conditions surveys may be required.

- 10) Details and samples of all facing materials shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure work of the relevant phase commencing. The details and samples shall include:
- a) Facing Brickwork(s); Sample panels of proposed brickwork to be used showing the colour, texture, pointing and textured brickwork and boundary walls shall be provided;
  - b) Window details and balconies/balustrades;
  - c) Roof materials;
  - d) Metal cladding;
  - e) Balcony detail including acoustic specification of screening;
  - f) Doors and access points;
  - g) Canopies;
  - h) Elevated walkway;
  - i) Green procurement plan; and
  - j) Any other materials to be used.

The development shall be carried out in accordance with the approved details and shall be maintained thereafter.

- 11) A scheme for sound insulation and noise control measures shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing. The sound insulation and noise control measures shall achieve the following internal noise targets in line with BS 8233: 2014:
- Bedrooms (2300 – 0700 hours) 30 dB LAeq, 8 hour and 45 dB Lmax (fast)  
Living Rooms (0700 – 2300 hours) 35 dB LAeq, 16 hour  
Dining rooms (0700 – 2300 hours) 40 dB LAeq, 16 hour

The sound insulation and noise control measures shall be carried out in accordance with the approved details, shall be implemented prior to the first occupation of the development hereby approved, and shall be maintained thereafter.

- 12) Full particulars and details of a scheme for sound insulation between the proposed office and residential use of the Hornsey Road north site building shall be submitted to and approved in writing by the Local Planning Authority prior to superstructure works commencing. The sound insulation and noise control measures shall be carried out in accordance with the approved details, shall be implemented prior to the first occupation of the development hereby approved, and shall be maintained thereafter.
- 13) Details of any roof-level structures (including lift over-runs, flues/extracts, plant, photovoltaic panels and window cleaning apparatus) shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing. The details shall include a justification for the height and size of the roof-level structures, their location, height above roof level, specifications and cladding. The development shall be carried out in

accordance with the approved details and shall be maintained thereafter. No roof-level structures shall be installed other than those approved.

- 14) Notwithstanding the plans hereby approved, further details of obscured glazing and/or privacy screens on the upper levels of the Grenville Road south site building to prevent overlooking to neighbouring properties shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing. The obscure glazing and privacy screens shall be installed prior to the occupation of the relevant units and shall be maintained thereafter.
- 15) Details of bicycle storage shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure work commencing. The approved bicycle storage shall be provided prior to the first occupation of the development hereby approved and shall be maintained thereafter.
- 16) Notwithstanding the plans hereby approved, details of green/brown roofs to the development hereby approved (including details of the extent of green/brown roofs, and the species to be planted/seeded) shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure work commencing. The green roofs shall form biodiversity-based roofs with extensive substrate bases (depth 80-150mm); cover at least all of the areas shown in the drawings hereby approved, confirmed by a location/extent plan; and be planted/seeded with an agreed mix of species within the first planting season following the practical completion of the building works.

An explanation as to why any areas of roof would not be covered with green/brown roofs shall be included with the above details. Brown roofs shall be expected to extend beneath any photovoltaic arrays proposed at roof level. The development shall be carried out in accordance with the approved details and shall be maintained thereafter.

- 17) Notwithstanding the submitted detail and the development hereby approved a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior to superstructure works commencing for the relevant phase of development. The scheme shall include the following details:
  - a) existing and proposed underground services and their relationship to both hard and soft landscaping;
  - b) proposed trees: their location, species, size and section showing rooting area;
  - c) soft plantings: including grass and turf areas, shrub and herbaceous areas;
  - d) topographical survey: including earthworks, ground finishes, top soiling with both conserved and imported topsoil(s), levels, drainage and fall in drain types;
  - e) enclosures and boundary treatment: including types, dimensions and treatments of walls, fences, screen walls, barriers, rails, retaining walls and hedges;
  - f) hard landscaping: including ground surfaces, kerbs, edges, ridge and flexible pavings, unit paving, furniture, steps and if applicable synthetic surfaces;
  - g) biodiversity value of the proposed landscaping;
  - h) inclusive design principles adopted in the landscaped features;
  - i) phasing of landscaping and planting;
  - j) bird and bat boxes; and



k) any other landscaping feature(s) forming part of the scheme.

All landscaping in accordance with the scheme shall be completed/planted during the first planting season following practical completion of the relevant phase of the development hereby approved in accordance with the approved planting phase. The landscaping and tree planting shall have a two-year maintenance/watering provision following planting and any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of completion of the development shall be replaced with the same species or an approved alternative to the satisfaction of the Local Planning Authority within the next planting season. The development shall be carried out in accordance with the approved details and shall be maintained thereafter.

18) The proposed measures relevant to energy as set out in the Sustainable Design and Construction Statement Ref SDCS/GS/201706 - BC hereby approved which shall together provide for no less than a 27.1% on-site total (regulated and unregulated) carbon dioxide reduction in comparison with total emissions from a building which complies with Building Regulations 2013 shall be installed and operational prior to the first occupation of the development and shall be maintained thereafter.

19) The proposed Solar Photovoltaic Panels shown on approved plan 4022-P.410\_A, which shall provide for no less than a 52.65 kWp of energy, shall be installed and operational prior to the first occupation of the development. Should there be any changes to the proposed solar panels, then details showing the revised arrangement providing at least the same amount of output shall be submitted and approved by the Local Planning Authority. These details shall include but not be limited to:

- a) Location;
- b) Output of panels;
- c) Area of panels; and
- d) Design (including elevation plans).

The final agreed scheme shall be installed and in operation prior to the first occupation of the development. The development shall be carried out in accordance with the approved details and shall be maintained thereafter.

20) All lifts hereby approved shall be installed and operational prior to the first occupation of the floorspace hereby approved and shall be maintained thereafter.

21) The dedicated refuse/recycling stores, which shall incorporate facilities for the recycling of compostable waste, shall be provided prior to first occupation of the development and shall be maintained thereafter.

22) Full details of the lighting across the site shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the relevant phase of the development hereby approved. The details shall include the location and full specification of: all lamps; light levels/spill lamps, floodlights, support structures, hours of operation and technical details on how impacts on bat foraging will be minimised. The lighting measures shall be carried out in

accordance with the approved details, shall be installed prior to occupation of the development and shall be maintained thereafter.

23) Details including floorplans, sections and elevations of all business floorspace at a scale of 1:50 shall be submitted to and approved in writing by the Local **Planning Authority prior to the occupation of any of the development's business floorspace**. The details shall include:

- a) accessible WC provision;
- b) public entrances including sections showing level access, door furniture and manifestations to glazing;
- c) space for the storage and charging of mobility scooters;
- d) details of accessible changing facilities for staff;
- e) accessible cycle storage;
- f) details of how the development would comply with the relevant parts of the Inclusive Design in Islington SPD; and
- g) refuge area and management strategy in the event of fire evacuation.

The development shall be carried out in accordance with the approved details and maintained thereafter.

24) Details, including floorplans, of business accommodation suitable for occupation by micro and small enterprises shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any of the **development's business floorspace**. The details shall confirm that no less than **5% of the development's business floorspace shall be suitable for occupation** by micro and small enterprises, and shall confirm the terms under which this floorspace shall be offered. The development shall be carried out in accordance with the approved details and shall be maintained thereafter. The business accommodation suitable for occupation by micro and small enterprises shall not be amalgamated with the remainder of the B1 floorspace in the development hereby approved.

25) Notwithstanding the Design and Access Statement and plans hereby approved, 14 of the new residential units shall be constructed to meet the requirements of Category 2 of the National Standard for Housing Design as set out in the Approved **Document M 2015 'Accessible and adaptable dwellings' M4 (2) and 2** units shall be constructed to meet the requirements of Category 3 of the National Standard for Housing Design as set out in the Approved Document M **2015 'Wheelchair user dwellings' M4 (3)**. A total of 2 x 2B3P units on the first and second floors of the north site building shall be provided to Category 3 standards. The development shall be constructed in accordance with the approved details and shall be maintained thereafter.

26) No cables, plumbing, down pipes, rainwater pipes, foul pipes or CCTV cameras or related equipment and installations shall be located/fixed to any elevation(s) of the buildings hereby approved. Should cables, plumbing, down pipes, rainwater pipes, foul pipes or CCTV cameras or related equipment and installations be considered necessary, the details of these shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. Notwithstanding the drawings hereby approved, no CCTV cameras or related equipment and installations are hereby approved.

- 27) At least 1,725sqm (GIA) of B1(c) floorspace shall be provided. The B1(c) floorspace shall be limited to uses within Use Class B1(c) and not for the purposes of Use Class B1(a) or B1(b) of the Schedule to the Town and Country Planning (Use Class) Order 1987 as amended 2005 (or the equivalent use within any amended/updated subsequent Order).
- 28) The B1(a) and B1(b) commercial floorspace hereby approved shall not operate outside the hours of 0700 - 2300.
- 29) The B1(c) commercial floorspace hereby approved shall not operate outside the hours of 0730 – 2000 Mondays to Fridays; 0830 – 1300 on Saturdays and at no time on Sundays.
- 30) The development shall be designed to achieve a water use target of no more than 95 litres per person per day, including by incorporating water efficient fixtures and fittings.
- 31) All business floorspace within the development hereby approved shall achieve a **BREEAM (2018) New Construction Scheme rating of no less than "Excellent"**.
- 32) Groundborne noise shall not exceed 35dB LAmax,Slow as measured in the centre of any residential room.
- 33) The window glass of all ground floor commercial units shall not be painted, tinted or otherwise obscured and no furniture or fixings which may obscure visibility above a height of 1.4m above finished floor level shall be placed within 2.0m of the inside of the window glass.
- 34) The commercial part of the development hereby permitted shall only accommodate uses falling within Use Class B1.
- 35) The design and installation of fixed plant shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1m from the façade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014.

## APPEARANCES

### FOR THE APPELLANT:

Matthew Reed QC	Counsel
Alun Evans	ROK Planning
Richard Gooden	4orm
Andy Roberts	Conisbee

### FOR THE LOCAL PLANNING AUTHORITY:

Simon Greenwood	London Borough of Islington
Gareth Reeves	London Borough of Islington

