
Appeal Decisions

Inquiry commenced on 17 May 2016

Site visit made on 24 May 2016

by Graham Dudley

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

Decision date: 8 July 2016

Appeal A: APP/X5990/C/15/3130605

The Carlton Tavern, Carlton Vale, London NW6 5EU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by CLTX Limited against an enforcement notice issued by the City of Westminster Council.
 - The Council's reference is RUD 58789.
 - The notice was issued on 19 June 2015.
 - The breach of planning control as alleged in the notice is the demolition of the Carlton Tavern Public House.
 - The requirements of the notice are to rebuild the Carlton Tavern, to match in facsimile the building as it stood immediately prior to its demolition on 8 April 2015, in conformity with the detailed architectural descriptions as to building materials, plan form, exterior and interior, attached to the enforcement notice, and in conformity with the photographs attached for the purposes of illustration.
 - The period for compliance with the requirements is 18 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B: APP/X5990/W/15/3025122

The Carlton Tavern, Carlton Vale, London NW6 5EU

- 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 CLTX Limited against the decision of City of Westminster Council.
 - The application Ref 14/05526/FULL, dated 10 June 2014, was refused by notice dated 13 January 2015.
 - The development proposed is for the redevelopment of the site to provide a commercial unit (A4) on the ground and basement floors and to provide a total of 10 residential units.
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Procedural and Other Matters

1. The inquiry was held on 17, 18, 19, 20 and 24 May 2016.
2. The Carlton Tavern was not a listed building at the time of demolition and listed building legislation does not apply. The building was also not formally identified as an Asset of Community Value at the time of demolition, although subsequently the use of the site has been identified as such. The council say that for the purposes of the National Planning Policy Framework [the Framework] the building was a heritage asset. The Framework indicates that a heritage asset is a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions,

because of its heritage interest. 'Heritage asset' includes designated heritage assets and assets identified by the local planning authority (including local listing). There is no formal identification of the building as being historically important or a heritage asset.

3. I acknowledge that Historic England were in the process of listing the building and had found it to be historically important, but up until then there was little recognition of this and the formal process towards listing had not concluded. In my view, the 'identification' of the building is important as how is an owner to know that they have a building of heritage value, unless it has been identified. The appellant would not reasonably have aware that this was likely to be the case until consulted by Historic England during the listing process. I therefore attach little weight in terms of the Framework policy relating to heritage assets.
4. When the planning application was submitted for the flat development that involved the demolition of the public house, the local planning authority did not object on the grounds of demolition or it being a heritage asset and there was little in the way of comment from interested parties. The application was recommended for approval by officers, although overturned by the planning committee on what appears to be mainly design grounds of the new development. It was argued by some that there was no need to object on the basis of the demolition of the public house as the new building was refused. However, had the local planning authority considered at that time it to be an identified heritage asset and historically important I have little doubt it would have been indicated in the reports, and probably be a reason for refusal.
5. However, that does not itself mean that the demolition was justified, as clearly matters had changed and Historic England's study of interwar public houses had identified the importance of the public house, unrelated to the application, and the appellant was well aware of that process, because Historic England had consulted the appellant. With Historic England's investigations and listing process taking place it is not unreasonable for the council to reconsider its position on the historic importance of the public house as the subsequent information from Historic England showed it to be a heritage asset.
6. A case was made by the council and interested parties that what appears to them to be intentional unauthorised development by the appellant should be a material consideration in the appeals. It was also put that the decision should effectively be a deterrent to others in a similar position. While I appreciate the sentiment behind this, it is my view that while the development was unauthorised, no weight should be attached to that, but the case should be considered on its planning merits as a retrospective planning application. However, I also accept that there should be no advantage given to the appellant because the demolition has now occurred.
7. In coming to this view I have taken into consideration the letter from the Chief Planner on 31 August 2015 relating to intentional unauthorised development. I acknowledge that it introduces a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals. However, it is clear that the policy is to apply to all new planning applications and appeals received from 31 August 2015. These appeals are prior to that date and I do not consider it would be reasonable to retrospectively apply the policy, as the appellant would not have been aware of it at the appropriate time.

8. It became apparent that the appellant's planning witness was not qualified, as identified in his evidence. In particular he is not a member of the RTPI and has not completed the Certificate in UK Planning Law. I accept, as put by the council, that this is a serious matter. However, I do not consider that means all the planning evidence should have no weight, but clearly the evidence has to be considered carefully, particularly avoiding areas cut and pasted from other decisions, and the weight attached to some aspects will be diminished.

Decisions

Appeal A

9. The appeal is allowed on ground (g), and the enforcement notice is to be varied by the deletion of 18 months and the substitution of 24 months as the period for compliance. Subject to this variation the enforcement notice is upheld.

Appeal B

10. The appeal is dismissed.

Reasons

Section 174 Appeal

Whether the requirements in the notice are adequate to enable the appellant to know what is required to remedy the breach

11. The majority of the building has been demolished, but the demolished materials have been retained on site, albeit in a heap and clearly in a severely damaged state. However, one gable end of the building is largely intact along with part of the return walls/roof, and some of the ground floor structure is retained. The gable wall provides extensive evidence of the structure of the building, including floor heights, roof slopes, windows etc. The ground plan of the building will be readily apparent from the base of the walls. In addition to that there is an extensive photographic record of the main parts of the building internally and externally. There are also plans of the building prior to demolition, produced for the planning application.
12. While I do not consider that much of the detailed fabric, such as the terracotta, glazed features and joinery could be salvaged from the rubble for reuse, there is sufficient material, when combined with the photographic evidence, to allow the details of those features to be identified and replicated. I consider that with all the information available there would be very little need for conjecture in relation to the external or internal arrangement of the building prior to demolition or the components used to build it.
13. The appellant says there is a lack of detail in the enforcement notice to enable the appellant to know what is required to be done. The concern in particular is that it appears to the appellant that the council expects a 'facsimile' to be produced 'exactly' as that existed prior to demolition. I accept that the council's heritage witness did to some extent give that impression, but he clearly acknowledged that every last detail such as socket and pipe positions could not necessarily be reproduced, particularly at upper floor levels where there were fewer photographs.
14. However, whether the notice is precise enough is not a matter for the council's witness, but for law and reasonable interpretation. It is commonly

acknowledged that the appellant is in the best position to know how something was arranged prior to them changing it. In my view, the notice is precise. It makes reference to an expectation to match in facsimile the building as it stood immediately prior to its demolition on 8 April 2015, in conformity with the detailed architectural descriptions as to building materials, plan form, exterior and interior, and photographs attached to the notice. The notice is to be read as a whole, so the requirement to produce a facsimile and match the building as it stood is read together with being in conformity with the details available and as described in the notice. This clearly acknowledges that the rebuilding will use the information and evidence available and is not unreasonable and will be a 'replica' of the original building. I do not consider the notice to be imprecise or unreasonable.

Planning Policy

15. The development plan includes the London Plan [LP], Westminster City Plan: Policies [SP] and saved policies of the Unitary Development Plan [UDP].
16. One of Westminster's strategic objectives of the Spatial Strategy is to increase the supply of housing and as a general principle housing is acceptable on all sites within Westminster and is the priority land use for delivery. However, it also notes that these homes will be designed and constructed to ensure a high quality residential environment. The quality of the residential environment and local characteristics of Westminster's neighbourhoods will continue to be a defining consideration for development proposal. So while housing provision is very important the design and effect on environment also remains a defining consideration.
17. SP Policy S25 relates to heritage and recognises Westminster's wider historic environment. Its extensive heritage assets will be conserved, including conservation areas and open spaces and their setting. SP Policy S34 notes that all social and community floor space will be protected, except where existing provision is being reconfigured, upgraded or re-located in order to improve services. Where the council accepts a loss or reduction in floor space the priority replacement would be residential use.
18. UDP Policy DES1 sets out principles of urban design and conservation. The aim is to ensure the highest standards in the form and quality of new development in order to preserve and enhance the townscape. UDP Policy DES9 relates to Conservation Areas with the aim to preserve and enhance the character and appearance of conservation areas and their settings. This notes buildings identified as of local architectural, historical and topographical interest in adopted conservation area audits will enjoy a general presumption against demolition. Development, although not within the conservation area, that might have a visibly adverse effect upon the area's recognised special character and appearance will not be permitted. UDP Policy DES10 relates to listed buildings with an aim to protect and enhance them, their settings and features of special architectural and historic interest. I do not consider this policy relevant to the appeal as the building was not listed at the time of demolition or thereafter.
19. LP Policy 4.8 provides support for successful and diverse retail sector and related facilities and services. LP Policy 7.8 relates to heritage assets and in planning decisions development should identify, value, conserve and restore,

re-use and incorporate heritage assets, where appropriate. Development affecting heritage assets and their settings should conserve their significance.

Ground (a) and Deemed Planning Application

20. The main issue is whether retrospective planning permission for demolition of the public house should be granted, particularly taking into consideration any heritage and community value of the public house.
21. It is common ground that the demolition of the public house was unauthorised, as prior approval for demolition was not sought as required by the Town and Country Planning (General Permitted Development) (England) Order 2015. It is also common ground that when assessing the retrospective planning application the building should be considered as being in the state it was in prior to the demolition occurring. At that time, Historic England was actively going through the process to consider whether the building should be recommended for listing. In simple terms in that situation the outcome of the listing process would and should be awaited and planning consent for demolition prior to Historic England decision should not be granted. That process has now ceased because of the demolition.
22. There is some difficulty with the current situation because, as noted below, there has inevitably been a considerable effect on the heritage value of the building. To take the effect of the demolition on heritage value into consideration might be giving advantage to the appellant for having demolished the building, and the new policy to take into account intentional demolition post dates the actions. I consider that it is necessary to consider the reality of the situation and therefore the value of the building if reconstructed should be considered, as the planning regime is not intended as a system for punishment for unauthorised actions.
23. Firstly I will consider the heritage value prior to demolition and then following demolition and reconstruction.
24. Historic England decided to undertake a study of urban and suburban public houses built in inter-war England from 1919 to 1939, because of the general loss of this type of building that has started to occur. The appeal building was included in this. It was not included as a reaction to the proposed development at the site, as is often the case, but identified separately, in its own right, to be part of the study. The study started with many buildings being considered for listing, but this was narrowed down and 34 urban and suburban public houses were assessed, with 20 positive recommendations for listing, 7 not to list and 7 rejected at initial assessment. All the recommendations were listed by the Department for Culture, Media and Sports [DCMS]. It was also noted by Historic England that 99.8% of all their recommendations were accepted by DCMS. An email from DCMS confirms that it considered it to be highly likely that DCMS would have listed the building. The appeal building would have been put forward for listing had it not been demolished, so it seems to me to be highly likely that it would have been listed had it not been demolished.
25. Section 12.10 of Volume Two of the Historic England Study sets out the detailed assessment of the Carlton Tavern. The public house was a replacement for a Victorian public house on the same site that was bombed in the First World War. It was designed by the architect Frank J Potter who undertook other work for Charrington and Co. The Carlton Tavern had two principle

elevations, one facing Carlton Vale and the other towards a lane by Paddington Recreation Ground. The recreation ground is currently laid out for many different sports, with a pavilion and café. St Augustine's church, which is a grade I listed building, is opposite. The area around Carlton Tavern was substantially altered by bombing in the Second World War and by subsequent redevelopment in the later half of the 20th century.

26. The Carlton Tavern is identified as having two main storeys, with attic and cellar along with a single storey projection to the rear that served as a luncheon and tea room. It was originally joined to the adjacent building and its gable end remains in place. Its design was plain vernacular style, drawing on Neo-Georgian and Arts and Crafts forms of architecture. It was built of brickwork with significant steel work internally and a tiled and gambrel roof. There are features formed of unglazed, stone coloured, terracotta and decorative glazed tiles, some of which formed an advertisement for the public house and functions within, and for the brewery.
27. Historic England found the exterior to generally have survived as built, apart from glass to some ground floor windows, and doorways into the tea room being later insertions. The main interior was found to consist of three distinct rooms, a public bar, a saloon bar and a luncheon and tea room, then in use as a function room. The previous arrangement for off sales was also identified; probably an 'L' shaped compartment, which was removed some time after 1960. Original counters, joinery, mouldings and other features were identified. The luncheon and tea room was found to be distinct from the other bar rooms in its position, design, service arrangement and size and was the largest of Carlton Tavern's public spaces.
28. After the First World War, public house building was slow and fewer than 25 a year were constructed between 1918 and 1921 and fewer survive, so the Carlton Tavern provided a rare example of the type of work being undertaken by a leading brewery at the time. Historic England noted a growing concern with the improvement of pub facilities in order to raise the reputation of the institution, which by the end of the period was demonstrated by restrained buildings featuring spacious and comfortable interiors, provision of recreation beyond drinking, the encouragement of family-centred leisure, and the service of meals and non-alcoholic drinks.
29. The Carlton Tavern was especially noted for its luncheon and tea room, prominently identified by the external lettering. The luncheon and tea room was archetypical of the improved public house and must have been versatile in its use, which was confirmed by many interested parties at the inquiry. The pub was notable for its restrained design, well planned servery and inter-connecting counters. In other respects, the Carlton Tavern resembles pubs of the pre-First World War period, with such features as the prominent external signage and limited lavatory facilities. Historic England found that the pub provided a good reflection of what was an important moment of transition for the English pub and unusual and notable in proclaiming the name of the brewery. It was found to be an extremely well-preserved example, internally and externally, of a rare, early type of improved pub being built by a nationally significant local brewery. I concur with Historic England that prior to demolition this was a heritage asset worthy of recommending for listing.

30. I now consider the Carlton Tavern's heritage value if rebuilt. A summary of the building's interest was identified by Historic England. Its architectural interest was that of an early inter-war improved public house, carefully detailed and built of good quality materials, showing the vision of a leading London Brewery. If Carlton Tavern were rebuilt, clearly the intrinsic value of the original materials would be a substantial loss to its architectural and historic interest and it would not be an 'early' example of the type. However, I see no reason from the information available why a detailed and accurate reconstruction could not be undertaken. So while it would not be 'early' it would remain a good example as a replica of an early inter-war improved public house, still showing the vision of a leading London brewery at that time. The materials in the reconstruction could be equally good quality and while not the original it would still provide reasonable evidence for the building prior to demolition and be of architectural and historic interest.
31. The plan layout could be readily reconstructed and a reconstructed building could provide a good record of this. While I accept that the original arrangement of the off-sales had changed prior to demolition, the reconstruction would be of the building as demolished and should provide the evidence of the change and that does not add weight against the architectural and historic interest that could be gained from the reconstructed plan form.
32. Clearly the interest generated by the survival of the original building has been lost and that is a significant loss. However, the hierarchy of rooms could be reconstructed, together with fixtures and fittings and decorative treatment as at the time of demolition. External signage would not be the original, but could be reconstructed so the layout and character generated by the signage would be there for people to see.
33. Rarity and date would be affected in that the materials and building would not be original and that is a significant loss. However, the reconstructed building would still show the layout of what was a rare public house and I consider there is a clear benefit to that. The reconstruction would not be of the original date, but it would be a detailed example of the building of that date.
34. The historic interest in the materials is lost, but a reconstruction would be of historic interest, showing the layout and arrangement of an improved public house that would still illustrate the growing concern at the time of raising the reputation of public houses by providing family facilities and reducing drunkenness.
35. I have taken into consideration the historic importance of the architect Frank Potter. He was not a major architect of the time, but did undertake a number of commissions for the brewery and some private houses in Hampstead. However, given his low profile I attach little weight to the building being a representation of the architect's work.
36. Overall, I conclude that the building was of considerable architectural and historic interest prior to demolition and that it is highly likely that it would have been listed. It seems to me that hasty demolition, against what the appellant's advisors would have recommended, as identified at the inquiry, suggests that the appellant was of a similar view. A reconstructed building would obviously lose the historic interest associated with it being an original building using original materials, fixtures and fittings etc. However, reconstruction would provide a substantial amount of evidence about the public house and features

- of importance, such as the plan form and example of an 'improved public house'. I therefore attach considerable weight to reconstruction of the original building.
37. I accept that when reconstructed it would not be a listed building and there is no evidence to show that it would be included on the statutory list in the future, but it would remain the subject of the enforcement notice. However, notwithstanding that, I consider that there is substantial benefit in the reconstruction on historical grounds.
 38. At the time the Carlton Tavern was demolished it had not been identified as an asset of community value. However, subsequent to demolition the appeal site has been nominated and listed as an asset of community value.
 39. The provisions for assets of community value give communities a right to identify a building or other land that they believe to be of importance to their community's social well-being. The aim is that, if the asset comes up for sale, then the community will be given a fair chance to make a bid to buy it on the open market.
 40. These provisions do not restrict in any way who the owner of a listed asset can sell his property to. They do not confer a right of first refusal to community interest groups. The provisions do not place any restriction on what an owner can do with their property, once listed, if it remains in their ownership. This is because it is planning policy that determines permitted uses for particular sites. However the fact that the site is listed may affect planning decisions – it is open to the Local Planning Authority to decide that listing an asset of community value is a material consideration if an application for any change of use is submitted, considering all the circumstances of the case.
 41. Some permitted development rights have been modified to take into consideration assets of community value, removing or modifying the right in respect of them, such as for demolition and some changes of use. The current status as an asset of community value is relevant and although the building has now been demolished, it is not unrealistic to consider that there is a time in the next five years when there could be a non-ancillary use of the land that would further the social well being or social interests of the local community.
 42. The notice was not challenged by the appellant, but that is because it proposes an A4 use on the land and in any new development it would not be possible to challenge the fact that the land is likely to have a relevant use and social value. It does not mean that the appellant considers the Carlton Tavern was a greater asset of community value. The appellant says that the benefit to the community can be achieved in the proposed A4 use and this matter should not affect the consideration associated with the demolition.
 43. The nomination as an asset of community value is a material consideration in both appeals. In the nomination it was noted that the Carlton Tavern has served the community well as a public house, a venue for celebrations of birth and marriage and a well-used place for memorial services. The Carlton Tavern also has a history of helping local sports and community organisations by facilitating meetings. The attached luncheon room made the Carlton Tavern more than a public house and served as an ideal inclusive setting where important events could take place. Interested parties confirmed this at the inquiry as well as in written submissions. Some also noted the importance of

the church, park and public house as a group, effectively likening them with the centre of a village, so in their view the loss of the public house would affect that character. I consider that it is the historical association, past usage, layout of the spaces, character and appearance of the previous building that has considerable important for the community.

44. I acknowledge that the proposed public house facility could be adapted to have the character inside to the landlord/owner's choice. However, from the evidence presented by interested parties, it was clear that the value of the original building was not simply a matter of it being a public house or A4 use, but was associated with the character, appearance and arrangement of the Carlton Tavern, prior to demolition and the associations this had for use for many different occasions.
45. The floor area of the proposed facility would be smaller and the outside arrangement would be extremely small and not nearly as adaptable as a larger garden space, and a considerable part of the proposed floor space is in a basement, which would not be nearly as pleasant as a ground floor space leading to a garden, as provided by the luncheon and tea room. With the proposed appeal scheme the A4 part of the development would not have been a prominent feature in the same way as the Carlton Tavern was, but a very small and integral part of the housing scheme.
46. Therefore, any facility provided, accepting it could be fitted out well, would to my mind be unlikely to be as valuable to the community as the Carlton Tavern and I attach a little weight to the loss of the Carlton Tavern as an asset of community value.
47. I have considered in detail below the proposed scheme together with consideration of the character and appearance of the surrounding area. The Carlton Tavern was an attractive building in the area and although of much smaller scale and of a different character to the nearby flats was an appropriate scale and design at the entrance to the park and was reflected by the small scale house on the opposite side of the entrance. While not within the conservation area, and probably never intended to be, it was within the setting of the Maida Vale Conservation Area. It provided a facility for users of the park and I accept that it would have been perceived as part of the 'village' together with the nearby church and recreation ground. Its demolition is a loss to the character and appearance of the area and harms the setting of the conservation area.
48. The appellant has put forward a scheme for redevelopment of the site that would include an A4 use. I have considered that application below under the Section 78 appeal and found it not to be acceptable and therefore I attach little weight to redevelopment of the site with that scheme. Other schemes could be proposed that might be more acceptable on the site, which could have benefits associated with housing provision and could accord with the priority to provide housing. However, I cannot envisage what form or size of development might be acceptable, or make a judgement about whether the benefit of any potential schemes might outweigh the harm that has been identified through demolition of the Carlton Tavern and warrant not rebuilding it.
49. Overall, I acknowledge that there may be potential benefits in providing additional housing, some of which might be affordable and that there could be an A4 facility on the site, but any weight to that is limited as the appellant has

not provided a scheme that demonstrates on the balance of probability that a viable scheme could be found. Without an appropriate scheme the site would be left open and unused, which would be to the detriment of the setting of the conservation area as the benefits of the existing building and the contribution it makes to the character and appearance of the area have been lost. The heritage value of the building, as identified by Historic England, has also been lost. In terms of the conservation area, I do not consider that any public benefits would outweigh the harm caused by the loss of the building on the setting of the conservation area. I conclude that retrospective planning permission for the demolition of the Carlton Tavern should not be granted. The development would not accord with SP Policies S25 and S34, UDP Policies DES1 and DES9 and LP Policies 4.8 and 7.8.

Ground (f)

50. The issue under ground (f) is whether the requirement to rebuild the public house exceeds what is necessary to remedy the breach or any injury to amenity.
51. The enforcement notice is directed at remedying the breach of demolition of the Carlton Tavern. Therefore the requirement to reconstruct the building as it was before is not unreasonable and does not exceed what is necessary to remedy the harm of demolition. It is argued that demolition of the public house has not caused harm to local amenity and that the harm that has been caused could be remedied by clearance of the appeal site. For the reasons set out under ground (a) I do not accept that the demolition has caused no harm to amenity. The lesser step of clearing the site would improve the character and appearance of the area in relation to the current demolition site, but it would not remedy the harm caused by loss of the building by its demolition.
52. The appeal on ground (f) fails.

Ground (g)

53. The issue is whether the period allowed for the remedy is reasonable. The appellant identifies the difficulties that would be involved in reconstructing the building, including the sourcing/manufacture of the joinery and other fixtures and fittings. There is no detailed information about the time this would take to back up those assertions. However, from experience I consider that it would be very time consuming preparing drawings and specifications and sourcing the specialist companies that would be required to reproduce some of the now more unusual or decorative fittings before construction starts. The construction period would also be time consuming. I accept that if the appellant has started the work, but not quite completed it, then the council does not have to take enforcement action. However, the time for completing the requirements should be what is reasonably considered necessary to complete the requirements. In my view, the 24 months requested by the appellant is reasonable and I shall extend the period from 18 months to 24 months for compliance with the notice. The appeal under ground (g) succeeds.

Section 78 Appeal

54. The main issue is the effect of the proposed development on the character and appearance of the surrounding area, including taking into consideration views into and out of the adjacent Maida Vale Conservation Area and its setting.

55. Part of the land around the Carlton Tavern is within the conservation area, but the building itself is outside of the conservation area. Key features of the conservation area include the generally early residential suburb, served by small groups of shops, but with some commercial activity, including the BBC. Different parts of the conservation area have different characters, including the stuccoed villas and terraces beside the canal, poly-chrome brick faced town houses and red brick mansions, and these reflect the changing styles of development over the period that the area was formed.
56. I consider originally the Maida Vale Conservation Area's architectural and historic interest related to the opulent and stuccoed terraces and villas mainly of the early 19th Century that were present in the streets originally identified and designated as the conservation area. It was later decided that the Victorian and Edwardian buildings were also considered of worth and should be added to the conservation area. The Paddington Recreation Ground, which was first laid out in 1889, was seen to be an important open space associated with the conservation area, around which the subsequent Edwardian mansions were laid out and is an integral and important part of the conservation area.
57. The Carlton Tavern was not included in the conservation area and there is no evidence to indicate whether it was considered for inclusion. However, given its proximity to the edge of the conservation with part of its grounds included, I consider that it is very likely that it would have been considered and for whatever reason it was decided that it would be excluded. However, that does not mean that it does not make a contribution to the park and conservation area. It is clearly within the setting of the conservation area and visible within views to and from the conservation area.
58. The immediate area of the Carlton Tavern is mixed. To one side is the Maida Vale Conservation Area, particularly the Paddington Recreation Ground, and on the other side the housing area formed mainly by blocks of flats. The heights of these vary a little, but are generally reasonably low, with those near to the Carlton Tavern being about 4 storeys high. The designs externally have pronounced horizontal division provided by the exposed floor edge and then vertical sub-division provided by the brick cross walls. This provides a box like main structure infilled with windows, balconies and brickwork. This gives the appearance of the elevations being formed by a number of rectangles with various forms of infilling.
59. The architect has considered the context of the appeal site and found these buildings to be a main feature of the character and appearance of the area and they have been used as a main influence for the appeal scheme. However, the form of construction has been kept decidedly modern and not copied the existing buildings, with a main frame with decorative panel infilling and windows. The scale and proportion of the individual parts of the building have maintained that of the adjacent buildings, and the overall height would be similar.
60. Overall, I consider that the principle of the design is good and while some question was raised about materials and colours, these are matters that could be resolved through appropriate conditions.
61. The Carlton Vale entrance to the park is a main entrance, with a small car park and access to the council's maintenance yard. The entrance area has considerable vegetation and the trees within the park are prominent features

from Carlton Vale. While there are 4 storey blocks of flats on either side, at the entrance, the scale of development is lessened on one side, with a small-scale house and previously on the other side, Carlton Tavern. To my mind, while the entrance to the recreation ground is not an ornate or decorative feature, the transition from housing development to the recreation ground is important and the reduced bulk and massing of the buildings adjacent is an important aspect of that and of views into the conservation area.

62. While the principle of the adjacent flat blocks has been used as a main influence, the design has then followed, to some extent, the previous location of the Carlton Tavern, in particular the forward location in relation to Carlton Vale, which is considerably different from the more set back position of the adjacent flats. In addition, the building has been 'extended', from the back of the previous pub position, towards the park and again well beyond the rear of the adjacent flats. To relieve the impact of the proposed building on the park and access road, stepping has been introduced into the elevations and the roof steps down to the rear, forming terraces.
63. In principle this is not an unreasonable approach to fitting the building into its environment. However, while I appreciate that a developer is required to make maximum use of a site, that has to be on the basis that the overall building would be acceptable in that environment. In this case, while I acknowledge the appropriate principle of the design, the resulting building would be far too bulky in the context, extending out both front and rear from the building adjacent, to which the principle of the design is related.
64. The considerable bulk and mass in this location close to the access of the recreation ground and extending rearwards towards the recreation ground beyond the current location of development would result in an incongruous and alien arrangement, harming the important transition area from the housing to the recreation ground. I accept that from within the main body of the recreation ground the development would be well screened by the band of trees and vegetation, but the access is clearly well used and the transition from recreation ground to residential area is important when entering and leaving it and when passing the entrance, going along Carlton Vale. To that extent the proposal would harm the views into and out of the Maida Vale Conservation Area and not preserve its setting.
65. I acknowledge that there would be considerable benefits through the provision of the type and large size of flats proposed and the contribution towards affordable housing and tree planting in the area, secured by an undertaking. I note that the council has a good 5 year housing land supply, but that does not mean that more housing should not be provided if appropriate and weight given to the benefits it would bring. I therefore attach considerable weight to this. I also note the provision of the A4 use which, as noted above, is not as good as that originally provided by Carlton Tavern. Nevertheless it would still be a beneficial part of the scheme and I attach some weight to it. However, taking all these factors into consideration I do not consider that the benefits of the development outweigh the harm identified, including to the Maida Vale Conservation Area. In terms of the Framework and sustainable development, the proposal would make significant contributions in terms of its social and economic role, but because of the harm to the character and appearance of the area, it would not protect the built environment and on balance, I do not consider it to be sustainable development. I have also taken into consideration

the loss of the former public house which as identified under Appeal A, ground (a), could still make a reasonable contribution in terms of historic heritage and this adds weight to my conclusion. I conclude that planning permission for the proposed development should not be granted. The development would not accord with SP Policies S25 and S34, UDP Policies DES1 and DES9 and LP Policies 4.8 and 7.8.

Graham Dudley

Inspector

APPEARANCES

FOR THE APPELLANT:

Rupert Warren QC
He called
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FOR THE LOCAL PLANNING AUTHORITY:

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She called
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INTERESTED PARTIES:

Nigel Barker Historic England
Cllr Rita Begum
Cllr Jan Prendergast
John Simmance Friends of Carlton Tavern
Poly Robertson Rebuild Carlton Tavern
Corin Levick
Chris Price
Robin Banks
Oz Rankin Hockey Club

DOCUMENTS

Document 1 Notification letter
2 Revised undertaking
3 Appellant's opening statement
4 Council's opening statement
5 Information regarding Carlton Tavern Steelwork
6 Cllr Begun's script
7 Email from Historic England 18 May 2016
8 Enforcement appeal committee report
9 Robin Banks – written submission
10 Listing information Park Crescent and Covent Garden
Underground Station
11 English Heritage (Historic England) document Changing London re

- Covent Garden Underground Station
- 12 View from Paddington Recreation Ground (Brooks Murray Architects)
- 13 Extract from Spatial Strategy related to housing
- 14 Extract from Spatial Strategy relating to increased supply of housing
- 15 Conditions, Undertaking and policies
- 16 Councillor Prendergast submissions
- 17 Mr Rafferty – Qualifications and Experience
- 18 Appellant’s suggestions related to conditions
- 19 Photographs and historic maps from Mr Banks
- 20 Council’s closing submissions
- 21 Appellant’s closing submissions
- 22 Legal references and appeal decisions