



Appeal Decisions

Site visit made on 16 July 2010

by **Mrs H M Higenbottam**

BA (Hons) MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

**Decision date:
8 September 2010**

Appeal A: APP/Y1945/C/10/2125626

Appeal B: APP/Y1945/C/10/2125627

West Herts College, Watford Campus, Hempstead Road, Watford WD17 3EZ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (hereinafter "the Act").
- The appeals are made by West Herts College and Ms Rushton against an enforcement notice issued by Watford Borough Council.
- The Council's reference is 10/00044/UD.
- The notice was issued on 1 March 2010.
- The breach of planning control as alleged in the notice is without planning permission, the construction of a building (referred to in this Notice as the Service Intake Building).
- The requirements of the notice are a) demolish and remove from the roof of the Service Intake Building the three chimneys; b) remove from the land all building and waste material arising from compliance with requirement (a) above.
- The period for compliance with the requirements is six calendar months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a) and (g) of the Act.
- Appeal B is proceeding on the grounds set out in section 174(2) (g) of the Act. Since the prescribed fees have not been paid within the specified period for Appeal B, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act do not fall to be considered.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the formal decision.

Appeal C: APP/Y1945/A/10/2125875

West Herts College, Watford Campus, Hempstead Road, Watford WD17 3EZ

- The appeal is made under section 78 of the Act against a refusal to grant planning permission.
- The appeal is made by West Herts College against the decision of Watford Borough Council.
- The application Ref 09/00289/FUL, dated 21 April 2009, was refused by notice dated 18 February 2010.
- The development proposed is the amendment of the approved Service Intake Building and yard, plus the erection of a chemical store, gas governor and meter enclosures and the part retention of the utility block.

Summary of Decision: The appeal is allowed and planning permission is granted in the terms set out in the formal decision.

Section 174 Appeal A on ground (a) and s78 Appeal C

Procedural Matter

1. In relation to Appeal C, during the course of the application amended plans were submitted, drawing nos P0040-3, P0041-1, P0042-1, P0043-1 and P0044-1. The Council determined the application on the basis of these amended plans. I will therefore determine the appeal on the basis of these amended plans.

Introduction and Main Issues

2. The appeal site lies within the Civic Core Conservation Area (CA) which is characterised by institutional buildings including the town hall, library and the recently completed leisure centre. Within the West Herts College Campus is the Lanchester Building, which has a locally listed 1930's design on the frontage. Nearby is a 17th Century building known as Little Cassiobury which is Grade II* listed. The northern boundary of the College Campus marks the extent of the CA.
3. Planning permission has been granted for the part demolition and part retention of the Lanchester Building and the erection of a new further education college with associated access, parking and landscaping (Council reference 07/00757/FULM). As part of this approved scheme existing mature trees, along the boundary of the College Campus and the rear boundaries of properties in Cassiobury Drive, were shown to be removed in order to accommodate the Service Intake Building (SIB).
4. Appeal A relates to the SIB as constructed, which is 2m longer than that previously approved and it has 3 exhaust flues serving 3 boilers within the building. Appeal C relates to the SIB as built, as well as a chemical store at the southern end of the service yard (for the storage of various chemicals and gas bottles used by the college for maintenance and teaching), the retention of part of an existing utility building in the north western corner of the campus and the creation of a secure enclosed area to accommodate two gas meter housings.
5. The Council raise no objection to the increased length of the SIB, the chemical store, the retention of part of the utility building or the gas meter housings. I am satisfied that these elements of Appeal C preserve the character and appearance of the area and no one has expressed any contrary view.
6. I therefore consider that the main issues in these appeals are the effect of the height and scale of the three chimneys on the living conditions of the occupiers of adjacent residential properties and whether the chimneys preserve or enhance the character or appearance of the CA.

Reasons

7. The SIB is adjacent to the rear boundaries of properties in Cassiobury Drive. Nos 30 and 32 Cassiobury Drive are the nearest residential properties to the flues and are sited over 35m away from the flues. The ground level of properties in Cassiobury Drive is about 2m lower than the College Campus. The height of each flue is about 2.7m above the parapet of the SIB. The roof level of the SIB is about 3.6m above ground level.

8. I saw that there were existing flues on parts of the existing college buildings. These flues were on buildings which are to be demolished as part of the redevelopment scheme of the College Campus currently being implemented.
9. The SIB is visible from the rear gardens and windows of properties in Cassiobury Drive. The College has planted three trees adjacent to the SIB which restrict views of the flues from the rear gardens and rear windows of the adjacent residential properties. However, the flues are visible from various angles from within the rear garden areas and from first floor windows. In some views, the flues are seen against the backdrop of the recently constructed college buildings (which is over 13m in height), but I accept that in other views at least one flue is not.
10. The flues are only visible from within the College Campus or from adjacent or nearby residential properties and gardens within Cassiobury Drive. Within the context of the College Campus the flues are not a dominant feature. They are not excessive in height and functional flues are a feature of existing buildings on the Campus, albeit the existing flues are taller than the appeal flues but are sited further away from the residential properties in Cassiobury Drive. The SIB building and the flues are viewed as part of the College Campus from the adjacent Cassiobury Drive properties and as such do not appear visually intrusive or out of character with other development within the College Campus.
11. The College has undertaken planting within the rear gardens of Nos 28, 30 and 32 Cassiobury Drive. The approved landscaping and additional landscaping which has been carried out would over time become established and the flues, which are green in colour, would blend in with that landscaping. The trees planted adjacent to the flues, within the College Campus, are not part of an approved landscaping scheme and therefore conditions would need to be imposed to ensure maintenance of those trees for a period of 5 years and replacement should they die within that period. I therefore find that subject to suitable conditions being imposed in relation to the maintenance of the landscaping which has been carried out within the College Campus adjacent to the SIB, I find that the flues would not be visually intrusive or overbearing to the occupiers of adjacent residential properties and would preserve the character and appearance of the CA.
12. Local residents have raised concerns in relation to the emissions from the flues. I understand that emissions from the flues are similar to a domestic boiler and only in the colder months would condensation emissions be visible. The Council's Environmental Health Officers have raised no objection to the flues and are satisfied that emissions would not be likely to cause National Air Quality Objectives for particles or nitrogen dioxide to be exceeded and do not give rise to any significant impacts on adjoining residents. I have no substantiated evidence before me to demonstrate that any emissions from the flues would cause harm to the living conditions of adjacent occupiers. Furthermore, if there were any concerns about air pollution these are capable of being addressed under other legislative powers.
13. I therefore find that the three flues do not harm the living conditions of adjacent occupiers and preserve the character and appearance of the CA. This complies with saved Policy U3 of the Watford District Plan which requires development to respect the surrounding setting.

Conditions

14. The Council have proposed no conditions for either Appeal A or C. However, for the reasons set out above, I will impose conditions relating to the landscaping which has already been carried out adjacent to the SIB and requiring its maintenance for 5 years.
15. In relation to Appeal A and Appeal C I consider that a condition, similar to that imposed on planning permission reference 07/00757/FULM, relating to noise impacts of the operation of the SIB and details of measures of noise mitigation for adjacent residents within Cassiobury Drive, is necessary and justified. Finally, I will impose a condition requiring that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning.

Ground (g)

16. In relation to Appeal B, it is unnecessary for me to consider whether the appeal on ground (g) should succeed as the enforcement notice will be quashed in consequence of my decision to allow Appeal A on ground (a). I shall, therefore, take no further action on this ground of appeal.

Formal Decisions

Appeal A: APP/Y1945/C/10/2125626

17. I allow the appeal, and direct that the enforcement notice be quashed. I grant planning permission on the application deemed to have been made under section 177(5) of the Act for the development already carried out, namely the construction of a building (Service Intake Building) on land at West Herts College, Watford Campus, Hempstead Road, Watford WD17 3EZ referred to in the notice, subject to the following conditions:
 - 1) The building operations hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-
 - i) within 3 months of the date of this decision a scheme showing the following:
 - a plan identifying existing trees and plants to be retained, between the Service Intake Building/service yard and the rear boundaries of properties in Cassiobury Drive; and
 - details of the noise impacts of the operation of the Service Intake Building on adjoining residential occupiers and noise mitigation measures;shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for the implementation of the noise mitigation measures.
 - ii) if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.

- iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
 - 2) Any trees or plants identified on the plan submitted pursuant to Condition 1 above, which, within a period of 5 years from the date of the submission of that plan, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
 - 3) The noise mitigation measures approved in accordance with Condition 1 shall be retained.

Appeal C: APP/Y1945/A/10/2125875

18. I allow the appeal, and grant planning permission for the amendment of the approved Service Intake Building and yard, plus the erection of a chemical store, gas governor and meter enclosures and the part retention of the utility block at West Herts College, Watford Campus, Hempstead Road, Watford WD17 3EZ in accordance with the terms of the application, Ref 09/00289/FUL, dated 21 April 2009, subject to the following conditions:

- 1) The Service Intake Building hereby permitted shall be demolished to ground level and all materials resulting from the demolition of it shall be removed within 3 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-
 - i) within 3 months of the date of this decision a scheme showing the following:
 - a plan identifying existing trees and plants to be retained, between the Service Intake Building/service yard and the rear boundaries of properties in Cassiobury Drive; and
 - details of the noise impacts of the operation of the Service Intake Building on adjoining residential occupiers and noise mitigation measures;shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for the implementation of the noise mitigation measures.
 - ii) if within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State.
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.

- 2) Any trees or plants identified on the plan submitted pursuant to Condition 1 above, which, within a period of 5 years from the date of the submission of that plan, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 3) The noise mitigation measures approved in accordance with Condition 1 shall be retained.
- 4) The development hereby permitted shall be carried out in accordance with the following plans 15906/P0005-0, P0030-0, P0031-0, P0032-0, P0035-0, P0040-3, P0041-1, P0042-1, P0043-1 and P0044-1.

Hilda Higenbottam

Inspector