



# Appeal Decision

Inquiry held on 9, 10 & 11 February  
and 22 March 2010

Site visit made on 22 March 2010

by **Zoë Hill BA(Hons) MRTPI**  
**DipBldgCons(RICS) IHBC**

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

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Decision date:  
**15 July 2010**  
Received on:

**Appeal Ref: APP/A5840/A/09/2114290**  
**120-138 Walworth Road, London SE17 1JL**

- 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 Goldcrest Homes (Strategic Land) Ltd against the decision of the Council of the London Borough of Southwark.
- The application Ref: 09-AP-1069, dated 29 May 2010, was refused by notice dated 15 September 2009.
- The development proposed is the redevelopment of site to provide a mixed-use development comprising 734sqm commercial floorspace (A1, A2, A3, A4) at ground floor level and 232 student accommodation units above with landscaping, 4 disabled only car parking spaces and 116 bicycle parking spaces.

## Application Description

1. During the application stage 12 additional bicycle parking spaces were sought and agreed to. As a result the above description was amended to reflect this and also to give greater detail of what is being proposed. The description set out in the Statement of Common Ground is 'erection of a part 4, part 5, part 7 and part 8 storey building providing a mixed-use development comprising 734sqm commercial floorspace (A1, A2, A3, A4) at ground floor level and 232 student accommodation units above with landscaping, 4 disabled only car parking spaces, 120 student cycle spaces and 8 commercial cycle spaces'. I shall deal with the appeal on this basis.

## Decision

2. I allow the appeal, and grant planning permission for the erection of a part 4, part 5, part 7 and part 8 storey building providing a mixed-use development comprising 734sqm commercial floorspace (A1, A2, A3, A4) at ground floor level and 232 student accommodation units above with landscaping, 4 disabled only car parking spaces, 120 student cycle spaces and 8 commercial cycle spaces at 120-138 Walworth Road, London SE17 1JL in accordance with the terms of the application, Ref: 09-AP-1069, dated 29 May 2010, subject to the conditions in the attached schedule.

## Preliminary Matters

S106

3. At the Inquiry a unilateral undertaking (s106 UU) and an agreement (s106 agreement) under s106 of the Town and Country Planning Act 1990 (as amended) were submitted. The s106 agreement sets out that a workplace co-ordinator will be put in place to provide training and facilitate access to

construction jobs, that there will be a construction apprenticeship scheme and that there will be local procurement of construction contracts, goods and services. The s106 agreement also sets out the requirements for a Travel Plan, parking permit restrictions, MUSCo<sup>1</sup> connections for communications and district heating, feasibility study and implementation of renewable technology, rent levels for student accommodation to be linked to comparable student accommodation in the Borough, that the student accommodation be used as a single planning unit, provision of a Residence Management Plan, highway works, provision of an east/west access link, and affordable business space.

4. The s106 agreement also sets out financial contributions to be paid prior to the implementation of the scheme as follows: community facilities contribution (£7,000); workplace co-ordinator management fee contribution (£12,473); public realm contribution (£40,000); and, site specific transport contribution (£57,500). Prior to occupation financial contributions in respect of public open space and sport development (£117,539); health contribution (£85,999) (not to be payable for as long as the students occupying the accommodation have free access to an accessible health practice providing health care equivalent to a National Health Service registered General Practice clinic); and strategic transport contribution (£53,543). In addition, if applicable, there would be a £22,229 Construction workplace co-ordinator and employment contribution. There would also be an administrative fee of £7,536 and a traffic management order contribution of £2,750. Sums to be paid would be subject to an indexation calculation.
5. The s106 UU sets out a cascade approach to letting the premises so as to give those attending specified local institutions first opportunity to fill vacancies during the letting period (1<sup>st</sup> September to 1<sup>st</sup> March each year).

#### *Listed Buildings*

6. The application was not advertised as affecting the setting of a listed building at the application stage. However, the site is almost adjacent to '140, 142, 150 & 152 Walworth Road' (John Smith House), and is the first part of a phased development, the second phase part being adjacent to John Smith House. It is also close to two listed buildings on the opposite side on Walworth Road, 'Southwark Central Library and Cumings Museum', and 'Southwark Municipal Offices and attached railings'. All these buildings are listed Grade II. Thus it was agreed that the Council would undertake to advertise the proposed development in accordance with the provisions of s67 of the Planning (Listed Buildings and Conservation Areas) Act 1990. As a result of that notification no further representations were received.
7. The effect of the proposed development on the setting of the listed buildings, was not a main issue between the parties. The special architectural and historic interest of 140-152 Walworth Road, a building dating from 1793-1799 by Francis Hurlblatt (which was later remodelled for the Labour Party, though it is no longer occupied by them) is its formal measured appearance and detailing. In contrast the later buildings Southwark Central Library (1892-1893) and Cumings Museum (1902-1906), and Southwark Municipal Offices and attached railings (1864-1865) are more ornate.

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<sup>1</sup> Multi Utilities Services Company

8. The proposed development has been designed with a lower section nearest to John Smith House and a set-back section to reflect the front building line of that building. Thus, in terms of basic form and position, I consider that it would not dominate the nearest listed building or the other listed buildings on the opposite side of Walworth Road. Moreover, the careful attention to materials, massing, scale, rhythm and proportions would similarly prevent a dominating appearance and would provide a sensitive setting for those buildings. As such, I find the proposed development would not harm the setting of the listed buildings identified but would preserve the setting for them. I therefore shall not address this matter further in my decision.

#### *Late Information*

9. After the close of the Inquiry additional evidence in respect of Strategic Policy 8 of the Council's proposed submission version of its Local Development Framework Core Strategy (draft LDF) was submitted, with a request for my consideration. The information had been available to the Council but not the appellant prior to the close of the Inquiry. As such, I sought views upon it and shall consider that information in my decision.

#### **Main Issues**

10. The main issues in this case are whether or not there is a need for student accommodation in this area, and the effect of the proposed development on the housing mix in the Elephant and Castle Opportunity Area, particularly bearing in mind the location of the educational institutions which student occupiers would be likely to attend.

#### **Reasons**

##### ***Student Housing Need***

11. Policy 3A.25 of The London Plan<sup>2</sup> says that the Mayor will, and boroughs should, work with the LDA and the higher and further education sectors to ensure that the needs of the education sectors are addressed in Development Plan Documents, including in respect of supporting the provision of student housing. Whilst this clearly seeks involvement with the education sector, it does not define who this should include and it does not seem unreasonable that this might include student housing providers in the private sector.
12. Policy 4.7 of the Southwark Plan<sup>3</sup> (UDP), relates to non self-contained housing for identified user groups. It supports such accommodation provided that it satisfies 4 criteria; the Council considers that the first of these has not been met. That criterion seeks that the need for, and suitability of, the accommodation can be demonstrated by the applicant.
13. What constitutes 'need' for student housing is not defined in the development plan. The Council acknowledges that the London Student Housing Requirements Study (2007) (LSHRS) concludes there is a need for more student bedspaces across London and therefore conceded that there is a London wide need. It seems Southwark is well provided for compared to other

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<sup>2</sup> The London Plan Spatial Development Strategy for Greater London Consolidated with Alterations since 2004 dated February 2008.

<sup>3</sup> The Southwark Plan 2007 is the Unitary Development Plan for this area.

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London boroughs, but this does not mean there is no need for student housing. There are some 31,000 students studying within a 2.4km radius of the appeal site. With the exception of one campus, which is some 100m outside the Council's administrative area, those establishments are within Southwark. Specific provision for those students amounts to just under 5,000 bedrooms in purpose built accommodation provided by the educational establishments of Kings College (KC), South Bank University (SBU) and the University of Arts (UoA). It is not disputed that a further 232 bedrooms exist within the Unite development Julian Markham House (100-114 Walworth Road) near to the appeal site, which are filled by UoA students. The remaining student housing needs are met by either the private rented sector or by staying within the family home, this latter group being a significant sector for students studying at SBU. As such, accommodation is being found, but not necessarily nearby and the difference between purpose built student housing provision and those students likely to need housing, reflects the LSHRS conclusions.

14. In its draft Core Strategy submission document the Council's supporting text to Strategic Policy 8 – student homes, states '*There is a need for more student accommodation across the whole of London and Southwark*'. This view of the Council, including taking account of other student housing 'in the pipeline' seems to have been endorsed by a number of committee reports for such development during 2008-2009 which have resulted in decisions to grant planning permission. Moreover, a general need for student housing in Southwark was conceded by the Council. In terms of student housing in the pipeline, some 1,437 spaces are identified by the appellant but only one of these, a direct let scheme providing 230 spaces, is under construction.
15. Not all of the student schemes recently approved have been in the Elephant and Castle Opportunity Area (ECO), but some have been. A main difference between this scheme and those being granted planning permission is the absence of a letter of support from an educational establishment. The Council's Residential Design Standards Supplementary Planning Document (SPD) section (4.3) relates to student housing. In order to ensure that appropriate levels of student housing are supplied in the Borough without prejudicing the development of general needs housing, it seeks that planning applications are accompanied with evidence of local need for student housing, including a letter from a recognised local education establishment. The other points are confirmation that the accommodation will be affordable to the identified user group, a matter which I consider would be resolved through the s106 UU, details of security arrangements, which are not disputed, and details of long term management and maintenance of the student housing which is also a matter for the s106 Agreement. The final point is that the site is easily accessible, which it is. The SPD does not form part of the development plan, but is a material consideration.
16. Although a letter from a local institution has not been supplied, the appellant explains such letters are difficult to secure because of the perception that written support is of 'value'. Instead the appellant supplies copies of letters submitted in recent years regarding other nearby student housing developments, which indicate a level of support for this type of accommodation in this general area. I also note that the Council's document 'Research into the need for additional student housing in Southwark' (December 2008), concludes

at the end of one chapter that 3 out of the 4 institutions visited felt that there is a need for additional specialist accommodation, halls of residence, cluster flats and self contained apartments for students.

17. The Council supplied 2 letters from local institutions to support their claim of a lack of local need. One from SBU says there is some requirement for purpose built accommodation but says the appeal scheme isn't suitable without elucidating on the matter. The other letter, from UoA, explains they need more than 1000 bed spaces, but that the scheme does not adhere to their required arrangement of cluster beds with shared kitchen facilities, as it proposes studio units. They also suggest that the cost of accommodation would be expensive and difficult for them to manage. However, the letter also confirms that they had been in discussion with the appellant about a letting arrangement including a 10% provision of subsidised units. An e-mail exchange was also provided which indicates that the letter was based on a template letter provided by the Council. Notably, whilst the Council's template suggested that UoA might say that they 'will not pursue the proposal' if it were developed, the actual letter submitted by UoA says it is 'unlikely' that they would. As such, I do not consider these suggest a lack of local need.
18. In each case whilst the educational establishment might not seek to use the building, this does not mean that students from those establishments seeking to find their own private sector housing would not be interested in this site. Indeed, it seems that other than first year students most students find their own accommodation. The proposed development would be capable of providing accommodation for those students seeking housing, particularly after their first year.
19. The production of a letter of support does not necessarily relate to a local link between the development and the local institution offering that letter of support. The appeal proposal offers, through the s106 UU, a specific time period during which the student housing units would be offered to those attending local institutions only (SBU, UoA, KC, Goldsmiths and the London School of Economics (LSE)). I accept that this group includes the LSE which is further away. In addition the period specified is likely to limit those able to take up that offer, such that first year students would be unlikely to access it unless taking a gap year. Nevertheless, it offers greater commitment to securing occupiers from the local area than seems to exist for most other nearby open market student housing which could be occupied by students studying anywhere. Therefore the s106 UU offers greater certainty in providing the link which the Council seeks.
20. The London Plan monitoring of non-self contained housing as a component of overall housing is simply that, as such I do not consider that it should be used as a target. Indeed both parties acknowledge that using past performance to set targets results in a skewed situation where those not delivering non-self contained units aren't expected to, whilst those succeeding are expected to continue to deliver at high levels. In addition the proposal to set disaggregated targets was specifically rejected in the Early London Plan Alterations EiP<sup>4</sup> Report. Nevertheless, looking at this aspect of The London Plan, I accept that the contribution that non-self contained housing makes to overall housing

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<sup>4</sup> Examination in Public.

provision is important and in this context I have no doubt that non-self contained housing, including that occupied by students, provides homes. Other documentation, for instance the Mayor of London's Housing SPG, also confirms the contribution that non-self contained accommodation makes to housing targets.

21. There is the possibility that purpose built student housing could free-up C3 Use Class dwellings used by students for local residents. However, there is no substantiated evidence of this effect in this area and as such, particularly given the likely increase in student housing demand, I do not accord this significant weight.
22. It is conceded that there is both a Southwark based and London wide need for student housing. In terms of this particular location, the SPD advice is not fully adhered to in that there is no letter of support from a local educational establishment. However, given the situation in terms of support for other schemes and the lack of requirement for any link between developments and supporting organisations, I do not consider that inadequacy to be so significant as to form the basis of withholding planning permission.
23. Following the close of the Inquiry late evidence was submitted setting out the Mayor's response to the Council's draft LDF Core Strategy submission. This stated that Strategic Policy 8 is not in conformity with The London Plan Policy 3A.25 and Policy 3.8 of the draft replacement London Plan because it seeks to restrict new student housing supply to that necessary to meet the needs of local universities. As such, it is considered by the Mayor that the proposed Strategic Policy 8 fails to recognise the strategic nature of student accommodation. Although I appreciate Government Office for London (GOL) has not taken such a view, and there are issues about the location of student housing which remain to be addressed, this response by the Mayor, because of its relationship to the process of policy making, whilst not one to which I can attach over-riding weight, further supports my conclusion on this matter in terms of the weight to attribute to the SPD.
24. In light of the above, need for student housing has been established and therefore I conclude that there would be no failure to comply with Policy 4.7.

#### ***Housing mix in the ECOA***

25. The appeal site is situated within the ECOA. UDP Policy 6.1 sets out the aims for development in the ECOA and lists 18 points some with further sub points.
26. Point (i) is that development should seek to "*establish and maintain a high quality, vibrant, safe and integrated mix of uses including homes, shops, commerce, offices, leisure, schools, cultural, community and other public facilities to support the current and new residents, workers and other visitors*".
27. Point (v) seeks the provision of "*a balanced and integrated mix of residential accommodation across the full range of private, social, key worker and other affordable housing...*".
28. Point (xviii) encourages various uses and at sub point (vii) sets, as one of eight priorities, the provision of no fewer than 5,300 mixed tenure homes, including

- 1,100 to replace those lost through demolition of the Heygate estate. The Heygate is a substantial housing estate situated to the east of the appeal site.
29. Policy 6.1 supporting paragraph 450 explains that many of the sites expected to deliver housing are set out on the Proposals Map. The appeal site is within allocated site 39P in the UDP.
30. The proposals map schedule<sup>5</sup> (p102-103) of the UDP also states the uses required for the area. The required uses for the core area site 39P include a range of Use Class D uses including social and educational use along with no fewer than 5,300 mixed tenure new homes, although the estimated capacity for residential units for 39P is 4,200 units as it is linked to other sites. In addition 39P is expected to provide up to 75,000sqm new retail and Use Class A uses together with additional complementary town centre uses.
31. I note that, as set out in the preceding paragraph, the entry in the schedule table for site 39P refers to 'new homes'. Elsewhere within the proposals map schedule 'residential' is used and in many places more specifically 'C3 Use Class'. All the other sites referred to as being linked to the 4,200 dwellings to be provided within 39P are more explicitly stated as being for C3 Use Class. Whilst the Council say the choice of terminology is not significant, it is not clearly defined in this context and can be interpreted differently and, I am not satisfied that 'new homes' was necessarily intended to preclude non-self contained housing, including for specific groups such as students.
32. UDP paragraph 517 says that the proposals map schedule and proposals map illustrate where specific uses are sought. Although the use of the word 'illustrative' suggests flexibility, paragraph 518, Strategic Policy 20, confirms the 'uses required' within the proposals map schedule must be included within designated sites, before other uses indicated as acceptable may be granted planning permission. No other uses than those set out in the proposals map schedule are acceptable for allocated site 39P. However, the range of acceptable uses is a broad mix and, as stated above, I consider it could include student housing.
33. The Council drew attention to the Inspector's Report as setting the background to the policies. In terms of Policy 6.1, it notes that the Elephant and Castle Core Area is in urgent need of regeneration, that because of its size, location and access to public transport it should be capable of accommodating the scale of new housing envisaged, including a substantial element of replacement and early housing. To my mind this indicates the importance of regeneration, including retail and B1 uses, as well as housing related to replacement of that to be lost. Clearly the tenure and affordability of housing are also significant, but the Report does not specifically exclude student housing, or housing for other specified groups, and housing for others in addition to the Heygate replacement is provided for. In any event, it is simply the background and I must consider the proposal in respect of what the UDP policies say.
34. The Council suggests that in this context of the policy background the reference in the use schedule referred to in Policy 6.1 to 'mixed tenure homes'

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<sup>5</sup> Also referred to as the proposals site schedule although I will use the wording set out above for clarity.

can only relate to Use Class C3 dwellings. However, I do not consider this to be the case.

35. I appreciate that student housing would not provide for affordable homes in the sense of long term housing and that in the future the Council hopes to adopt a policy to secure 35% affordable housing in student accommodation. However, that policy is a significant way from adoption and I accord it little weight. Moreover, the s106 agreement would require that the student housing be let at a rent no greater than rents of similar student housing of similar size, age specification, location and service charge level in the Borough of Southwark, so as to make it more likely to be affordable to students. Bearing this in mind, along with the characteristics of student housing as being generally more affordable (than open market accommodation) for this specific group, it seems to me that it would contribute to the aims of Policy 6.1 to create a balanced and integrated mix of residential accommodation across the full range of private, social, key worker and other affordable housing.
36. The Elephant & Castle Framework 2004, which is Supplementary Planning Guidance (SPG), similarly sets out a vision of the regeneration of the area with a central core, in which it seeks to encourage retail and commercial uses, and significant new residential (Use Class C3) housing including that to provide for the Heygate's occupants. In terms of the appeal site the document indicates, accompanied by a schematic plan, predominantly residential/livework units on the upper level on the appeal land and neighbouring land to either side. It does not exclusively seek such units or specifically identify them for use as part of the Heygate replacement. It also seeks to encourage student housing further along Walworth Road. Notably it is encouraging rather than being prescriptive. Moreover, the more recent 2007 UDP, as set out above uses the phrase 'new homes' to describe the residential accommodation within 39P.
37. The Walworth Road SPD (2008) is set out as being to supplement the UDP. In terms of this site, it seeks to encourage mixed use residential development on upper floors of new buildings brought forward in the SPD area. More specifically in respect of this site it states "*town centre uses at ground and first floor/mezzanine. Residential in the upper floors*". I am mindful that the SPD followed an appeal on this site, in which the mix of residential units, amongst other things had been found to be lacking. That said, the SPD only seeks residential use on the upper floors and does not prescribe in any detail what form that should take, it is however much more specific on design issues.
38. Whilst an overall housing scheme would be expected to provide a mix of accommodation this cannot so readily be achieved for student or similar housing for specified groups because of likely occupiers and management. That said, the scheme would provide some variety within its own type by including accommodation specifically designed for couples and occupation by students with disabilities, these latter facilities being identified by the education establishments as being limited within the area.
39. There is no disagreement about the ground floor A1, A2, A3 and A4 uses and I consider that new student housing would provide new homes, a residential use, albeit for a specified group. I appreciate that the proposed student housing would be single tenure, but it was accepted that early housing sites form single tenure housing albeit outside the core area. In addition the site is close to



another student housing block within the ECOA core area, Julian Markham House, but equally it is close to land already developed for more general residential use. In any event, it seems that the proposed mixed use development would contribute to the redevelopment of the ECOA core area.

40. There is a resolution to grant planning permission on the site for 91 general purpose housing units. The Council indicates that it had anticipated that 9 social rented and 9 intermediate homes would have been provided from that scheme. In addition I was told some 10% of the dwellings would have been 3 bed family housing. The legal agreement in that case has been complicated due, I understand, to uncertainty in relation to economic viability and levels of affordable housing sought by the Council. Full details of those negotiations regarding that previous scheme are not before me. In any event, I consider that student housing of a more generally affordable nature would contribute to the overall housing mix.
41. I do not doubt that there is a need for new dwellings including family and affordable housing accommodation, including that which might be occupied by residents from the Heygate, but there is also a need for student accommodation. In terms of scope to achieve general housing levels required within the ECOA, particularly that for the Heygate's former occupants, the Council's table 'E&C Opportunity Area & early Housing Sites – Housing Figure Projections 22.07.09' for that wider area, even having discounted the appeal site, projects scope for delivery of gross social rented units in excess of the 1,100 required by Policy 6.1.
42. Moreover, the table submitted to the Inquiry indicates capacity of 494 affordable housing units in locations directly related to the Heygate return offer, a matter which was not disputed. At February this year, 250 requests to return had been made. Thus, it seems that those currently seeking to be re-housed to the local area, under agreed right to return, could be. I understand from the appellant's undisputed evidence that those 250 are part of some 650 tenants who could make such a request. I appreciate up-take could increase and finding the right accommodation is not simply a numerical exercise. Nevertheless at this point in the process it appears that required re-housing would be achieved, particularly as there is scope for other housing sites with affordable housing to come forward.
43. I appreciate that The London Plan requires an increase in housing provision within the ECOA to 6,000 homes for the period 2001-2026. In addition, the housing requirement figure in the consultation draft replacement of The London Plan October 2009 seeks a further upward revision for housing targets and thus, in both cases, the number of affordable houses required would increase. Although not providing C3 Use Class units, the student accommodation proposed would contribute towards those figures.
44. I have already dealt with the issue of the need for student housing. I understand that the Council feels that it would be unacceptable for students attending educational establishments some distance away to occupy a site that might provide for local people. In this case the s106 UU would be likely to result in students studying nearby occupying the proposed building. Whether or not that is reasonable in terms of a London wide strategic approach, it would only be if there were no take up by local students that students studying

further afield would be able to occupy the housing. I therefore consider that the s106 UU gives a greater likelihood of local links than in most circumstances for either student or open market housing.

45. The full mix of uses and accommodation sought for the area, as set out in Policy 6.1, is most unlikely to be achieved on any one site. I have concluded that the proposed development would contribute to achieving a vibrant integrated mix of uses, including homes, albeit for students. I find compliance with Strategic Policy 20 and the thrust of Policy 6.1.
46. Combined with the need identified for student housing set out in the preceding issue, I do not consider that the Council's reasons to refuse planning permission are justified.

### **Other Matters**

47. Concerns have been raised in terms of impact on the residential living conditions of nearby properties. However, I am satisfied that the orientation of the building and position of openings is such that there would not be significant harm to privacy, or daylight within main habitable rooms. Nor do I consider that the scheme would result in unacceptable levels of noise and disturbance for this locality, particularly given the conditions in respect of hours of use and the requirement for a management plan (through the s106 agreement) in respect of the proposed student housing.
48. The Council expressed concern that allowing this development could set a precedent for student housing in the core of the ECOA. However, each application would need to be considered on its own merits, having regard to policies and associated matters, such as the housing and tenure mix, within the area at that time.

### **Conditions**

49. In dealing with conditions I have been mindful of advice within Circular 11/95 The Use of Conditions in Planning Permissions, the model conditions it contains and those set out in the Planning Inspectorate's published model conditions. I have amended the conditions before me to accord with that advice where necessary and to achieve consistency in wording.
50. In addition to the standard time condition I shall set out the approved plans for the avoidance of doubt.
51. Given the prominent location in close proximity to sensitive listed buildings I shall impose a materials condition and require large scale details of principle façade elements, the North East stair/lift tower and shop fronts. For clarity conditions have been separated out. I shall not impose requirements to submit details of a signage strategy as shop front details can deal with fascia sizes and other matters relating to signs should be dealt with under the Advertisement Regulations.
52. I have imposed a landscaping condition reflecting the model condition and, given the importance of the site to place making, imposed a 5 year maintenance requirement. I have imposed a separate condition in respect of landscaping the terraces, and a further condition to protect street trees.

53. Although a contamination/remediation report has been submitted it has not been approved by the local planning authority. Therefore a condition shall be imposed to require approval of the scheme, require compliance with it and a validation report. I shall also make provision for the event that unidentified contamination is found when carrying out the development. This is necessary to minimise risks from contamination.
54. I shall impose a condition to require an Environmental Management Plan to deal with demolition and construction works. That Plan will be for the Council to approve but should cover matters such as work phases, environmental impacts and mitigation, details of piling, acoustic screening during works and so forth.
55. I shall impose sound insulation conditions in the interest of the living conditions of future occupiers. In terms of noise transmission between commercial and residential accommodation, rather than imposing a vague condition requiring reasonable resistance to the transmission of sound, I shall require submission of a scheme. I shall also impose a condition restricting the noise from plant so as to protect the living conditions of the nearest residents. A further condition will be imposed to confirm that the stated noise levels have been achieved.
56. I shall not impose a condition restricting use of the outdoor amenity areas as this is unreasonable and unnecessary. Concerns regarding noise from those using such areas could be controlled through other means.
57. The site is within an air management zone and so I shall require details of a scheme to reduce air pollution impacts on future occupiers, in accordance with UDP policy. I shall also impose a condition in respect of odour extraction equipment in the interests of residents living conditions.
58. I shall impose a condition regarding BREEAM standards in the interests of energy saving and sustainable development. In addition I shall seek a scheme for electric car charging facilities to encourage sustainable transport.
59. A Service Management Plan will also be required by condition to deal with servicing relating to renewable energy, commercial refuse and recycling and servicing of the student accommodation. A condition will also be imposed to restrict hours of commercial deliveries in the interests of the living conditions of future residents and occupiers of nearby dwellings. I shall also impose a condition limiting the hours of use of the commercial premises in order to protect residential amenity.
60. A condition to keep visibility splays free from development and planting will be required to provide for safe access. Secure cycle parking/storage will be required for students and commercial occupiers to encourage sustainable transport.
61. Permitted development rights for telecommunications plant and equipment shall be removed in order to protect the appearance of the building which has been carefully designed so as to protect the setting of nearby listed buildings.
62. External lighting and security equipment details shall be submitted for approval and thereafter implemented in the interests of the visual amenity of the area.

63. Details of the wheelchair accessible units, and circulation areas shall be submitted and then complied with to ensure they are to a standard suitable for use by wheelchair users.
64. Compliance with the flood risk assessment and provision of details of the sustainable urban drainage scheme along with its management are necessary to minimise flood risk.
65. I do not consider that details of adequate water supplies and anticipated flow rates should be required by condition as this is a matter covered by other legislation.

### **S106**

66. The s106 Agreement covers an extensive range of areas set out in the preliminary matters. I am satisfied that each of the matters covered is necessary for the development and reasonably related to it, with links into both policy and SPD guidance. The local training and procurement are sustainable requirements of the s106, as is the travel plan and MUSCo plan details. The single unit use of the student accommodation and management plan is necessary to ensure the accommodation is controlled in a co-ordinated way for the benefit of occupiers and neighbours. The highways works and east/west link relate to the master plan and vision for this area. The affordable business space also relates to encouraging the development of this regeneration area. The commuted sums reflect those set out in the Council's guidance.
67. The s106 UU sets out a cascade approach to letting the premises so as to give those attending specified local institutions first opportunity to fill vacancies during the letting period (1<sup>st</sup> September to 1<sup>st</sup> March each year), which as I have referred to above, provides for a local link sought by the Council.

### **Conclusion**

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

*Zoë Hill*

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Daniel Kolinsky of Counsel                      Instructed by the London Borough of Southwark  
He called  
Mr Jon Abbott MA MRTPI  
Miss Alison Squires MA  
MRTPI  
Mr Rob Bristow  
BSc(Hons) DipTP MA  
MRTPI MCMi

FOR THE APPELLANT:

Morag Ellis QC                                      Instructed by Mr Sean Tickle  
She called  
Mr James Pullan MRICS  
Mr Sean Tickle BA(Hons)  
DipTP MRTPI

INTERESTED PERSONS:

Mr Richard Rees                                  Local Resident

DOCUMENTS SUBMITTED AT THE INQUIRY AND DURING THE ADJOURNMENT

- 1 Letter of notification of the Inquiry with full list of consultees and Copy of site notice
- 2 Copy of site notice and press notice regarding the setting of listed buildings
- 3 Extract of Early alterations to the London Plan – EiP Panel recommendations not accepted
- 4 Opening Statement on behalf of the Appellants
- 5 Opening Statement on behalf of the Council
- 6 Supplementary Proof of Evidence – Mr James Pullan
- 7 Extract of Early alterations to the London Plan EiP Panel Report: September 2006
- 8 Rebuttal and Supplementary Proof of Evidence of Mr Sean Tickle
- 9 Committee Report regarding 200 Great Dover Street
- 10 E-mail dated 4 February 2010 regarding the Heygate Estate with plan appended
- 11 Research into the need for additional student housing in Southwark December 2008 (full document)
- 12 Copy of e-mails (with letter) between Jon Abbott and Robin Holloway
- 13 Policy 1.5 Small Business Units
- 14 Bundle of 3 listed building descriptions: 140, 142, 150 & 152 Walworth Road, Southwark Central Library and Cumings Museum, and Southwark Municipal Offices and attached railings
- 15 Updated and extended table setting out assessment of housing
- 16 English Heritage Consultation response

- 17 Extract from The London Plan (para 3.1117)
- 18 Handwritten note regarding references in Mr Tickle's Proof of evidence that the London Plan sets targets for non-self contained units
- 19 Extract from Southwark Core Strategy Publication/submission November 2009 – Strategic Policy 8 – Student homes
- 20 Southwark Housing Capacity Study (to replace partial copy in Core Documents)
- 21 Elephant & Castle Development Framework (to replace partial copy in Core Documents)
- 22 S106 Agreement
- 23 S106 Unilateral Undertaking
- 24 Sequential and Exception Test
- 25 Suggested conditions/updated suggested conditions
- 26 Consultation Responses (details with map)
- 27 Extract of Southwark Section 106 planning obligations supplementary planning document (July 2007)
- 28 Handwritten condition and alterations
- 29 S106 Matters – response to Inspector questions
- 30 Closing Statement on behalf of the Council
- 31 Closing Statement on behalf of the Appellant

#### PLANS

##### A1-17 The application plans

- Location Plan 4483 / T(10) P00 LC Rev C
- Existing Plan (Pre-demolition) 4483 / T(10) P00 ES Rev C
- Site Location Plan
- Ground Floor Plan 4738 / T(20) P00 Rev G
- Ground Floor Plan Phase 2 4738 / T(20) P00-P2 Rev A
- First Floor Plans 4738 / T(20) P01 Rev D
- Second & Third Floor Plans 4738 / T(20) P02 Rev D
- Fourth & Fifth Floor Plans 4738 / T(20) P03 Rev D
- Sixth & Seventh Floor Plans 4738 / T(20) P04 Rev D
- Eighth Floor Plans 4738 / T(20) P05 Rev D
- Section A-A Section B-B 4738 / T(20) S01 Rev A
- East West Elevation Walworth Road 4738 / T(20) E01 Rev E
- East-West Elevation Phase 2 4738 / T(20) E02 Rev A
- South Elevation Phase One & Two
- 4738 / T(20) E03 Rev B
- Walworth Road Elevations detailed Bay Study -I
- 4483 / T(20) E04 Rev A
- Walworth Road Elevations Detailed Bay Study -II 4483 / T(20) E05 rev A
- Walworth Road Elevations Detailed Bay Study – III 4483 / T(20) E06 Rev A

##### B The Southwark Plan (Southwark UDP) Proposals Map

- C1-4 Plans for information only to illustrate the difference between the Appeal Scheme and the Residential Scheme (May 08) drawings 4836/T20 series P00/A, P01/A, P07/A, E01/A

**Conditions Schedule: APP/A5840/A/09/2114290**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: 4738 T series T20P00 G, T20P00-P2 A, T20P01 D, T20P02 D, T20P03 D, T20P04 D, T20P05 D, T20E01 E, T20E02 A, T20E03 B, T20E04 A, T20E05 A, T20E06 A, T20S01 A and 4483 series T(10)P00-LC C, T(10)P00-ES C and the site location plan.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall be carried out until 1:5 or 1:10 section detail-drawings through selected (as shall be agreed beforehand in writing by the local planning authority) principal elements/details of the façade have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall be carried out until elevational and plan drawings at a scale of 1:20 of the top level of the North East stair/lift tower, as well as 1:5 section detail-drawings through all principal elements of it, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development shall be carried out until elevational drawings at a scale of 1:20 of the proposed shop-fronts have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until full details at a scale of 1:50 of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include details of how shared pedestrian routes within the public realm are to be safeguarded for the mobility impaired and hard surfacing materials. The planting, seeding or turfing comprised within the scheme shall be carried out in the first planting season following completion of building works and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with another of a similar size and species, unless variation to the species of a plant or its position is agreed in writing by the local planning authority
- 8) Details of landscaping of all terraces to be provided as part of the development shall be submitted to and approved by the local planning

authority before any work in connection with the terraces is carried out. The landscaping shall thereafter be implemented in strict accordance with the approved details and thereafter retained as such. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with another of a similar size and species, unless variation to the species of a plant or its position is agreed in writing by the local planning authority.

- 9) No development shall take place until details of the means by which the existing trees along the site frontage of Walworth Road are to be protected from damage by vehicles, stored or stacked building supplies, waste or other materials, and building plant or other equipment have been submitted to and approved in writing by the local planning authority. The approved protection measures shall be installed prior to the commencement of works on site and retained throughout the period of the works.
- 10) (a) No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.  
(b) The approved remediation scheme shall be implemented in accordance with its terms and the approved timetable of works.  
(c) Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be submitted to the local planning authority.
- 11) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 10 and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10 which shall be subject to the approval in writing of the local planning authority. The approved remediation scheme shall be implemented in accordance with the approved timetable of works. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved by the local planning authority in accordance with condition 10.
- 12) No development shall take place until details of an Environmental Management Plan have been submitted to, and approved in writing by the local planning authority. The Environmental Management Plan shall include measures to minimise disturbance including noise, vibration, dust, smoke and plant emissions emanating from the site during



demolition and construction. All demolition and construction work shall be undertaken in strict accordance with the approved Environmental Management Plan.

- 13) All residential premises shall be designed in accordance with BS8233:1999 'Sound insulation and noise reduction for buildings - Code of Practice' to attain the following internal noise levels:

Bedrooms 30dB  $L_{Aeq,T^*}$  and 45dB  $L_{Afm\max}$

Living rooms 30dB  $L_{Aeq, T^*}$

$T^*$  = Night-time 8 hours between 23:00 and 07:00 and daytime 16 hours between 07:00 and 23:00.

The development shall not be brought into use or occupied until a test has been carried out to show that the standard of sound insulation required has been met and the results submitted to the local planning authority for written approval.

- 14) Rooms for residential use shall be designed and constructed to provide the following resistance to the passage of sound:

$L_{nT'w}$  of floors and stairs- no more than 57dB

$D_{nT'w} + C_{tr}$  of floors, stairs and walls: no less than 50dB

A test shall be carried out after completion but prior to occupation or use to show the criterion above have been met and the results submitted to the local planning authority for written approval.

- 15) Construction work shall not begin until a scheme for protecting the proposed residential accommodation from noise from the commercial premises has been submitted and approved in writing by the local planning authority; all works which form part of the scheme shall be completed before the residential accommodation is occupied and shall permanently be maintained thereafter. A test shall be carried out after completion but prior to occupation to show the criterion above have been met and the results submitted to the local planning authority for written approval.
- 16) Prior to installation of any plant to commercial units, details of the specification demonstrating that the rated noise level from such plant and associated ducting shall be 10dB(A) or more below the measured  $L_{A90}$  level at the nearest noise sensitive premises (those being the western elevation of the scheme hereby approved, the eastern and southern elevation of 11 Steedman Street and the eastern elevation of 9 Steedman Street) shall be submitted to and approved in writing by the local planning authority. The installation of the approved plant shall be carried out prior to the commencement of any of the commercial uses hereby permitted and retained thereafter. All equipment installed as part of the approved scheme shall be operated and maintained in accordance with the manufacturer's instructions.
- 17) Within one month of the installation of the plant detailed in condition 16 a further noise report to demonstrate compliance with the rated noise

levels set out in condition 16 have been achieved shall be submitted for approval in writing by the local planning authority.

- 18) Prior to the commencement of building works on site, a report detailing steps to minimise the development's future occupiers' exposure to air pollution including oxides of nitrogen and particulate matter shall be submitted to and approved by the local planning authority. Any scheme approved is to be completed prior to occupation of the development and shall be permanently maintained thereafter.
- 19) Prior to the commencement of any A3 or A4 use hereby permitted, a scheme for the extract ventilation, filtration and deodorising of cooking fumes shall be submitted to and approved in writing by the local planning authority. The scheme submitted shall also include effective stack height, discharge points and a maintenance schedule. The approved scheme shall be implemented prior to the first commencement of the A3 or A4 use hereby permitted and retained thereafter. All equipment installed as part of the approved scheme shall be operated and maintained in accordance with the approved schedule.
- 20) Prior to the commencement of fit out works to the commercial premises, the applicant shall provide to the local planning authority an independently verified BREEAM report (detailing performance in each category, overall score, BREEAM rating and a BREEAM certificate of building performance) to achieve a minimum 'Very Good' rating. The development shall then be provided in accordance with the approved BREEAM report details and a certified Post Construction Review (or other verification process agreed in writing with the local planning authority) shall be provided, confirming that the agreed standards have been met prior to the occupation of these premises.
- 21) Prior to commencement of the development hereby approved, details of a scheme for the installation (including location and type) and management of at least two electric vehicle charger points within the car park area shall be submitted to and approved in writing by the local planning authority. The electric vehicle charger points shall be installed in accordance with the approved scheme prior to occupation of the development and retained for the lifetime of the building.
- 22) The development hereby approved shall not be occupied until such time as a Service Management Plan has been submitted to and approved in writing by the local planning authority. The approved plan shall thereafter be implemented and adhered to for the life of the development.
- 23) No deliveries, including loading or unloading, shall be taken at or despatched from the site outside the hours of 07:00 to 21:00 nor at any time on Sundays or Public Holidays.
- 24) The commercial uses hereby granted at ground floor shall not take place other than between the hours of:
  - 07:00 – 23:30, Mondays - Fridays
  - 07:00 - Midnight Saturdays
  - 08:30 – 23:00 Sundays.

- 25) No structures or planting or boundary treatment, exceeding 600mm in height overall, shall be placed or erected within the area of visibility of the splays to the Walworth Road access shown on drawing no. 4738/T(20) P00 Rev G.
- 26) No development shall take place until detailed drawings at a scale of 1:50 of the facilities to be provided for the secure storage/parking of a minimum of 120 student cycles have been submitted to and approved in writing by the local planning authority. Prior to the first occupation of the student accommodation hereby permitted the secure cycle storage/parking shall be provided in accordance with the approved details. Thereafter the secure cycle storage/parking facilities shall be retained and the space used for no other purpose.
- 27) No development shall take place until detailed drawings at a scale of 1:50 of the facilities to be provided for the secure storage/parking of a minimum of 8 cycles for commercial occupiers have been submitted to and approved in writing by the local planning authority. Prior to the first occupation of any commercial unit hereby permitted the secure cycle storage/parking shall be provided in accordance with the approved details. Thereafter the secure cycle storage/parking facilities shall be retained and the space used for no other purpose.
- 28) Notwithstanding the provisions of Parts 24 and 25 The Town & Country Planning [General Permitted Development] Order 1995 [as amended or re-enacted] no external telecommunications equipment or structures shall be placed on the roof or any other part of a building hereby permitted.
- 29) Details of any external lighting [including design, power and position of luminaires] and security surveillance equipment of external areas surrounding the building shall be submitted to the local planning authority for its written approval before any such lighting or security equipment is installed and the development shall thereafter not be carried out otherwise than in accordance with the written approval given.
- 30) No development shall take place until details for the fitting out of the wheelchair accessible student studios, ancillary areas and circulation space hereby approved have been submitted to the local planning authority for its written approval. Prior to the first occupation of any student accommodation hereby approved the wheelchair accessible units, ancillary areas and circulation space shall be fitted out in accordance with the approved scheme and shall be retained thereafter.
- 31) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment carried out by RPS (28 May 2009, Ref. FLC 2157/046R Rev. 2) and in accordance with the Implementation of a Flood Management Plan, as described in paragraph 3.23 of the Flood Risk Assessment.
- 32) No development shall take place until details of the implementation, adoption, maintenance and management of the sustainable drainage system have been submitted to and approved in writing by the local planning authority. The system shall be implemented and thereafter managed and maintained in accordance with the approved details. Those

details shall include a timetable for its implementation, and a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.