



# Appeal Decision

Hearing held on 17 July 2007

Site visit made on 17 July 2007

by **J D S Gillis BA (Hons) MRTPI**

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

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Date: 1 August 2007

**Appeal Ref: APP/N4720/A/07/2040528**

**Site off Cavendish Street, Leeds, LS3 1AF**

- 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 Magro Ltd. against the decision of Leeds City Council.
- The application Ref P/06/02379/RM, dated 7 April 2006, was refused by notice dated 26 January 2007.
- The development proposed is multi level development up to 11 storeys comprising 127 clusters with 361 bedrooms and 54 studio flats, with ground floor retail unit and basement car parking.

**Summary of Decision: The appeal is dismissed.**

## Procedural matters

1. The application sought planning permission for matters reserved under an outline planning permission granted in December 2002 [Ref. 20/401/02/OT] for student accommodation on the site [an extension of time for submission of details of the reserved matters was granted in December 2005]. The application originally specified development up to 13 storeys in height with 157 units of residential accommodation, in addition to the ancillary accommodation indicated above. Various amendments to the original scheme were undertaken prior to determination by the Council.
2. The application form indicated that the reserved matters details submitted related to design, external appearance and landscaping, but siting and access were also included on the plans and considered by the Council. It was confirmed at the Hearing that all these matters were included in the application. I will consider the appeal on that basis.
3. At the Hearing I pointed out that there were discrepancies between the description of the proposed development on the Council's Decision Notice and the submitted plans. In particular while the Decision Notice stated 11 storeys the plans showed that the proposal comprised basement, ground floor and 11 further floors, although the scale of the accommodation comprised 74 clusters with 364 bedrooms together with 50 studio flats, making 414 bedrooms in total. The parties agreed that the proposed development was as shown on the plans and that the Decision Notice was incorrect in its description of the proposal.
4. The total bedroom accommodation would be one fewer than indicated by the Decision Notice. I do not consider that this is material. While the numbers of

clusters and studio flats require amendment this appears to have arisen from double counting of the studio flats. With their inclusion as clusters as well as separate units. I do not consider that the necessary corrections are significant in terms of the impact of the proposed development.

5. The incorrect description of the height of the proposal is, in my view, more significant and Mr W McKinnon, an interested third party present at the Hearing, indicated that he had not appreciated the difference between the description and the submitted plans and this could affect the views he wished to express. However, I am satisfied that the submitted plans had been correctly referenced and available for inspection. Furthermore, Mr McKinnon being present and invited to speak at the Hearing was able to express his views adequately to me. I consider that neither he nor any other interested party had been materially disadvantaged by the discrepancies.
6. In these circumstances, and as agreed by the parties, I shall consider the appeal on the basis of the revised description together with the submitted plans.
7. I also noted that the submitted plans omit any bathroom facilities for an individual room on levels 3 to 8 inclusive. It was accepted by the parties that this was an error in the plans. I do not consider that it is material to my consideration of the case before me.
8. I am aware that some local residents expressed concern, especially at the application stage, as to the impact of further student accommodation on the local community and area. It was suggested at the Hearing that this may also have influenced Council Members in rejecting the officer recommendation for approval of the submitted proposal. However, the appeal relates only to the refusal of planning permission for the detailed reserved matters as specified above. Permission for the provision of student accommodation on the appeal site has been established and is not a matter before me in this appeal.

### **Main issues**

9. From the representations received in writing and at the Hearing, and my inspection of the site and surrounding area, I consider that the main issues in the case are:
  - The effect of the proposed development on the character and appearance of the area;
  - Whether the proposal would result in material harm to the living conditions of occupiers of nearby residential accommodation in relation to visual dominance and loss or privacy, sunlight and daylight; and
  - Whether the proposal would provide acceptable residential accommodation for the prospective occupiers in relation to visual dominance, privacy, sunlight, daylight and outdoor space.

## Reasoning

10. The appeal site is located towards the western edge of the city centre in an area currently of mixed development, but including a significant amount of residential development designed primarily as student accommodation – in particular the sites immediately to the north and west and also further to the north-west. The area is undergoing redevelopment within the context of its city centre edge location, with an emphasis on multi-storey developments for student accommodation, hotels and other commercial uses. The land immediately to the south of the appeal site, and in ownership of the appellant, has received outline planning permission for a mixed development including these uses.
11. On the first issue, the proposed development would be set back somewhat from the edges of the site but the building would nevertheless occupy a very substantial proportion of the land. It would occupy all sides of the site except for the vehicular access from the western side and a three storey gap on the eastern side. A central courtyard would provide an open area largely enclosed by the proposed building. The building would be stepped down to the south, with the highest section at its north-eastern corner and a block comprising lower ground, ground and 8 further floors at its southern end.
12. Buildings of this height and scale, covering significant proportions of their sites, are represented in the area – especially the other blocks of student accommodation. In this respect the proposal would not be uncharacteristic or out of context in terms of its general appearance. However, the character and appearance of the area is clearly changing as redevelopment proceeds. I consider that the scale of development in the area as a whole needs very careful consideration to ensure that the design, mass and density of future developments avoid the shortcomings apparent in some of the existing development. I consider that insufficient attention has been given in the area generally to the impact of close proximity of tall buildings to a street pattern originally designed for more domestic scale buildings.
13. I note that the Council's design guidance for the general area indicates maximum heights that seek to reflect the topography of the area and rising towards the main part of the city centre. While it is argued that the proposed development follows that guidance I do not consider that such guidance intends that all future developments should attain the maximum heights indicated. While good design should have regard to the existing character and appearance it should also seek to provide variety and interest and thus enhance the area and relate to emerging changes in its character and appearance.
14. At the Hearing the Council's officers accepted that lessons needed to be learned from some of the existing developments in the area – particularly in relation to the extent of the site coverage and the physical arrangement between tall buildings. In this context I note the amendments to the originally submitted scheme, particularly in relation to the Bingley Street frontage. The potential development of the adjacent site to the east had been recognized and some allowance made to seek to ensure a more satisfactory relationship than if the appeal site was built up too close to the rear edge of the footpath.

15. I consider that the proposed development would fail to achieve such a satisfactory relationship to the existing buildings on the opposite side of Cavendish Street and, even more so, Abbey Street. Apart from the partial overlapping area between Sentinel Towers and the Tannery the street scene of Cavendish Street is typified by tall buildings facing lower buildings. This is fairly general throughout the local area, with the exception of the recent and current developments on either side of the link created northwards from the western end of Cavendish Street.
16. In addition to this unsatisfactory visual relationship, I consider that the proposed building would create a sense of over-dominance for pedestrian users of Cavendish Street and Abbey Street. In addition it was accepted at the Hearing that the potential implications for air movements and wind had not been considered in the design of the proposed development. I consider that the close physical relationship of such tall buildings as existing on the adjacent sites and proposed on the appeal site could result in very adverse conditions due to funneling air movements. The gaps on the east and west sides of the proposed building could exacerbate this feature, creating eddies in the wind movement. Such conditions would add to the discomfort of pedestrians in the area.
17. I conclude on the first issue, therefore, that while the proposed development reflects some of the characteristics of the surrounding area these are generally the poorer characteristics. I consider that the proposal would result in an unsatisfactory and unacceptable visual and physical relationship to the adjacent buildings on Cavendish Street and Abbey Street. This would be significantly detrimental to the developing character and appearance of the area and fail to enhance it.
18. Thus the proposal would conflict with policies GP5, BD5, N12, and N13 of the Leeds Unitary Development Plan Review, adopted in 2006, and with the national policy emphasis on the importance of good design given in Planning Policy Statement 1, *Delivering Sustainable Development* [PPS1] and PPS3, *Housing*.
19. Turning to the second issue, the close physical relationship of the proposed building to the adjacent buildings would have a significant impact on living conditions of occupiers. I accept that residential accommodation not intended for full-time occupation may be acceptable at different standards to that designed for full-time use. I also recognize that in an area of redevelopment such as this it would not be realistic to expect the appeal site to continue in its current form and scale of development.
20. Nevertheless I consider that the proximity to the adjacent buildings, together with the height, mass and scale of the proposal, would result in material harm to the living conditions of a significant number of occupiers of these adjacent buildings in relation to visual dominance and loss of privacy, sunlight and daylight – particularly for the occupants on the lower floors. The proposed development would thus be contrary to policies GP5 and BD5 of the adopted development plan and fail to satisfy national policies set out in PPS1 and PPS3.
21. I further consider that similar harm would result to prospective occupiers of the proposed development due to such proximity to adjacent buildings, and also

the small scale of the proposed internal courtyard. As a result of the height, scale and mass of the southern section of the proposed building, albeit of a lower height than the northern section, occupiers of accommodation facing on to the courtyard would also suffer material harm to their living conditions arising from visual dominance and loss of privacy, sunlight and daylight.

22. I recognize that the proposed internal layout seeks to locate the communal areas – where the need for privacy may be less – closest to the adjacent buildings. I also note that the window design of some of the accommodation seeks to reduce the loss of privacy while attempting to reduce loss of natural light. However, these factors appear to seek to mitigate the problems that result from the form, scale, mass and height of the proposed building, arising from the desire to maximize use of the site. I consider that many of the potential future occupiers of the proposed developments would suffer from unacceptable loss of privacy, daylight and sunlight, together with visual dominance, particularly those occupants of accommodation on the lower floors.
23. In relation to outdoor space provision I consider that the proposed courtyard would be inadequate not only in terms of usable space but also due to the fact that it would be in almost permanent shadow and potentially windswept. Thus it would provide neither adequate privacy nor natural light to the adjoining residential accommodation nor an area conducive to use for social interaction.
24. Hence I conclude on this issue that the proposed development would result in significant harm to the living conditions of many prospective occupiers due to visual dominance and lack of privacy, sunlight, daylight and adequate usable outdoor space. Thus it would again conflict with policies GP5 and BD5 of the adopted development plan and national policies PPS1 and PPS3.
25. I have had regard to all other matters raised and recognise that national policy is to make effective use of previously developed land in urban areas. However, such policy recognises the need to reflect and enhance the character and appearance of the area and provide acceptable living conditions. Neither this nor any of the other matters raised is sufficient to outweigh those that have led to my decision. I conclude that the proposed development would be contrary to national and adopted development plan policies and is unacceptable.

### **Formal Decision**

26. I dismiss the appeal.

*J D S Gillis*

Inspector