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Item No: 7.1

Application: 180886

Applicant: D G Rose Limited

Agent: Mr Peter Johnson

Proposal: Residential use of former car park to international house following change of use from B1a (offices) to C3 (dwellings) of international house (resubmission of planning permission 170259)

Location: International House, Moss Road, Stanway, Colchester, CO3 0JL

Ward: Stanway

Officer: Eleanor Moss

Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee because Cllr Scott-Boutell has called the application in for the following reasons:

- Impact on the amenity of occupiers of International House
- Concerns about number of parking spaces

2.0 Synopsis

2.1 Following a recent appeal decision for the same proposal, an acceptable noise assessment has been submitted and the proposal is now acceptable with regard to privacy, the provision of external space, the living conditions of the occupiers of International House, parking, the character and appearance of the area and amenity of future occupiers.

2.2 The application is subsequently recommended for approval.

3.0 Site Description and Context

3.1 The vicinity of the application site is characterised by fairly large scale buildings formally laid out on a grid of straight roads. The appeal site sits between one such building and a surface car park.

4.0 Description of the Proposal

4.1 This application seeks outline planning permission for residential development of a former car park which used to serve International House but is now surplus to requirements.

5.0 Land Use Allocation

5.1 Mixed

6.0 Relevant Planning History

6.1 162649 - The host building, International House, submitted an application for prior approval to convert the office building into residential properties.

6.2 170259 – Proposed block of flats in former car park of International House. This application was refused due to the impact upon street scene, poor standard of amenity for future occupiers and impact upon the occupiers of International House. The application was dismissed at appeal for the following reason:

Whilst I have found that the proposal would not have harmful effects with regard to privacy, the provision of external space, the living conditions of the occupiers of International House or the character and appearance of the area,

that does not outweigh my concern regarding the impact of noise on future occupiers. For that reason, the appeal should be dismissed.

It should be noted the previous application was dismissed on the grounds of a lack of noise assessment alone. A copy of the appeal decision is included at Appendix 1.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
CE2b - District Centres
CE3 - Employment Zones
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR2 - Built Design and Character
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA3 - Public Transport
TA4 - Roads and Traffic
TA5 - Parking
ENV1 - Environment

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP7 Local Centres and Individual Shops
DP12 Dwelling Standards
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards
DP20 Flood Risk and Management of Surface Water Drainage

- 7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

SA CE1 Mixed Use Sites

SA STA1 Appropriate Uses within the Stanway Growth Area

- 7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

The Essex Design Guide

External Materials in New Developments

EPOA Vehicle Parking Standards

Sustainable Construction

Planning for Broadband 2016

Managing Archaeology in Development

Stanway Joint Design Statement and Parish Plan

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.
- 8.2 Highway Authority - From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to mitigation and conditions.
- 8.3 Environmental Protection - Environmental protection would have no objections should the conditions be applied should permission be granted.
- 8.4 Archaeology – No objection subject to recommended conditions

9.0 Parish Council Response

- 9.1 The Parish Council have stated that Stanway Parish Council OBJECTS to this proposal due to the lack of parking.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council’s website. However, a summary of the material considerations is given below:
- Impact upon parking
 - Impact upon existing commercial and industrial businesses in the area

11.0 Parking Provision

- 11.1 Complies with car parking standards

12.0 Open Space Provisions

12.1 N/A

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Planning Obligations

14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

Principle of Development:

15.1 The application site is located in the settlement limits and within a defined Urban District Centre, Core Strategy CE2b confirms that Centres should deliver a more diverse range of uses, including housing. As such the proposal is considered to be acceptable in principle. Furthermore, the Appeal Inspector did not raise a concern in relation to the principle.

Character and Appearance:

15.2 The Appeal Inspector did not raise a concern to the proposed development in terms of character and appearance, the relevant paragraph is provided below:

13. The vicinity of the appeal site is characterised by fairly large scale buildings formally laid out on a grid of straight roads. The appeal site sits between one such building and a surface car park. Taking into account that the proposal does not seek to establish the scale or layout of the building, I see no reason why any proposed building should necessarily be over-dominant, oppressive or disrupt the balance of the street scene. These concerns, along with landscaping and the appearance of the building, could be addressed at the reserved matters stage. Therefore I find that the proposal would not have a detrimental effect on the character and appearance of the area and so would not conflict with DP Policy DP1 or Policy UR2 of the Council's Core Strategy 2008 insofar as they require development to achieve a high standard of design which respects and enhances the character of the site and its surroundings in terms of height, size, scale and massing.”

- 15.3 The appearance and layout is reserved for later reserved matters application(s). In light of the above, the proposal is not considered to have a harmful impact upon the surroundings.

Impact on Neighbouring Properties:

- 15.4 In terms of the appeal decision, the Appeal Inspector did not consider the impact upon neighbouring properties to be materially harmful. The most relevant paragraphs from the appeal decision are provided below:

10. *The southern elevation of International House includes windows at first and second floor levels which face the appeal site at close range. Views from those windows, therefore, have the potential to reduce the privacy of future occupiers of the appeal site. However, the appeal site has a frontage onto Moss Road and an open aspect to the car park to the south. Since the appeal proposal does not seek to establish the scale of layout of the residential development, in my view there would be scope of position and orientate a building on the site so as to avoid overlooking from International House, notwithstanding that flatted development may be more intensively occupied. These considerations could be controlled through the approval of reserved matters. To this extent therefore, the proposal would not conflict with DP Policies DP1 or DP12 in as much as they require development to protect residential amenity with regard to privacy.*
11. *Given the flexibility in the scale and layout of the proposal, it should also be possible to ensure that future occupiers are provided with adequate usable external space. As such, the proposal would not conflict with DP Policy DP16 which requires new residential development to provide a high standard of private amenity space.*

Living conditions of the occupiers of International House

12. *The considerations set out above would also allow for the siting, scale and massing of the new building to be arranged in a way that would avoid it having an overbearing presence close to the windows in the southern elevation of International House, even taking into account the potential intensity of the occupation of the building. Again, these details could be controlled at the reserved matters stage. As such the proposal would not have a harmful effect on the living conditions of the occupiers of International House by reason of loss of outlook. In that regard, the proposal would not conflict with DP Policies DP1 or DP12 to the extent that they seek to protect residential amenity*

- 15.5 The appeal decision, which is an important material planning consideration, did not raise an objection in relation to impact upon amenity. Furthermore an acceptable noise assessment has now been submitted, overcoming the only reason for the appeal dismissal. Environmental Protection have not raised an objection to the scheme, subject to conditions which have been agreed with the Agent. Overall, it considered a refusal on this basis would be unreasonable and unlikely to be defensible at appeal. Specific detail on appearance, landscaping and layout is not required as a part of this application as it is outline in nature and these will be agreed through the reserved matters application(s). Given this, there is no reason to assume that the proposed flats will be of poor design and will result in harm to amenity. Any shortcomings could be addressed at the reserved matters stage.

Highways and Parking:

- 15.6 The Appeal Inspector did not raise an objection to the scheme in relation to parking and highways safety. Given that proposal will provide for the required visibility splays, the proposed scheme is not considered to have a severe impact on the local highway either in terms of highway safety or capacity and accords with planning policies which seek to improve accessibility and changes in travel behaviour. The Highways Authority does not raise any concerns in relation to the proposal, and as such is considered to be acceptable in terms of highways safety.
- 15.7 Policy TA5 of the Core Strategy refers to parking and states that development proposals should manage parking to accord with the accessibility of the location and to ensure people friendly street environments. Policy DP19 states that the Council will refer developers to the Essex Planning Officers Association (EPOA) Vehicle Parking Standards which is an adopted SPD (November 2009). This policy requires that a minimum of one parking space should be provided for each dwelling of one bedroom.
- 15.8 The submitted plan details parking in accordance with the aforementioned policy and SPD and as such the proposal is considered to accord with the requirements.

16.0 Conclusion

- 16.1 To summarise, it is considered that an acceptable noise assessment has been submitted and the proposal is now acceptable with regard to privacy, the provision of external space, the living conditions of the occupiers of International House, parking, the character and appearance of the area and amenity of future occupiers, the proposal would not sustain a refusal at appeal. Therefore, on balance, the scheme complies with the Development Plan and the NPPF and an approval is warranted.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAC - *Time Limit for Outline Permissions Part 1 of 3*

No development shall be commenced until plans and particulars of "the reserved matters" referred to in the below conditions relating to the APPEARANCE, LANDSCAPING and LAYOUT have been submitted to and agreed, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: The application as submitted does not provide sufficient particulars for consideration of these details.

3. ZAD - Time Limit for Outline Permissions Part 2 of 3

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

4. ZAE - Time Limit for Outline Permissions Part 3 of 3

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

5. ZAM - *Development to Accord With Approved Plans*

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers 4039/121A and 4039/122.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

6. ZBC - Materials To Be Agreed

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

7. ZCF - Refuse and Recycling As Shown

Prior to the first occupation of the development, the refuse and recycling storage facilities as shown on the approved plans shall have been provided and made available to serve the development. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection.

8. Non Standard Condition – Window details

Prior to installation, the details of the windows being installed shall be submitted in writing to the local Planning Authority for approval. Windows on the West, North and South facades shall have an acoustic performance not less than 39Rw. The windows shall be fixed to prevent opening and retained and maintained in that form thereafter.

Reason: To protect amenity.

9. Non Standard Condition – Mechanical Ventilation

Prior to installation, the details of Mechanical ventilation being installed to ensure adequate ventilation in habitable rooms shall be submitted in writing to the local planning authority for approval. Details shall include the internal noise generated which shall not exceed the internal levels set in the current version of BS8233 "Guidance on Sound Insulation and Noise reduction for Buildings". The ventilation system shall be retained and maintained in that form thereafter.

Reason: To protect amenity.

10. Non Standard Condition – Demolition

No demolition or construction work shall take outside of the following times;

Weekdays: 08:00 to 18:00

Saturdays: 08:00 to 13:00

Sundays and Bank Holidays: None

Reason: To protect amenity.

11. Non Standard Condition - Archaeology

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority. The Scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

12. Non Standard Condition - Highways

No unbound materials shall be used in the surface treatment of the proposed vehicular access within 10m of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety.

13. Z00 – Highways

No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and under body washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

14. Non Standard Condition – Highways

Prior to the occupation of the proposed development, details of the provision for the storage of bicycles sufficient for all occupants of that dwelling, of a design this shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.

Reason: To promote the use of sustainable means of transport.

15. Non Standard Condition – Highways

The development shall not be occupied until such time as the car parking spaces have been allocated to each dwelling and turning area is provided in accord with the details shown in Drawing Numbered 4039/121A. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety

18.0 Informatives

18.1 The following informatives are also recommended:

1. INS – Highways

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at

development.management@essexhighways.org or by post to:

SMO1 – Essex Highways
Colchester Highways Depot,
653 The Crescent,
Colchester
CO4 9YQ

2. INS – Archaeology

PLEASE NOTE The submitted scheme of archaeological investigation should be in accordance with an agreed brief. This can be procured beforehand by the developer from Colchester Borough Council. Please see the Council's website for further information:

<http://www.colchester.gov.uk>

3. ZT0 – Advisory Note on Construction & Demolition

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

4. ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

5. ZTB - Informative on Any Application With a Site Notice

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.



Appeal Decision

Site visit made on 27 February 2018

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 March 2018

Appeal Ref: APP/A1530/W/17/3184975

International House, Moss Road, Stanway CO3 0JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to outline grant planning permission.
 - The appeal is made by D G Rose Limited against the decision of Colchester Borough Council.
 - The application Ref 170259, dated 30 January 2017, was refused by notice dated 28 March 2017.
 - The development proposed is described as 'Residential use of former car park to International House following change of use from B1a (offices) to C3 (dwellings) of International House, reference 162649, dated 12 December 2016. Existing access to be relocated as discussed with Highway Authority.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters except access reserved for further approval. Application drawing No 120 shows a rectangle labelled 'Residential Uses' within the application site. The appellant's statement confirms that this rectangle is not intended to be indicative of the size or position of any proposed building. Notwithstanding that the appellant's statement describes the proposal as an 'apartment block' no other illustrative material has been submitted and nor do the submissions seek to establish the number of residential units proposed.

Main Issues

3. The main issues in this case are the effects of the proposal on:
 - the living conditions of future occupiers with particular regard to noise, odours, privacy and the provision of external space;
 - the living conditions of the occupiers of International House with particular regard to outlook;
 - the character and appearance of the area.

Reasons

Living Conditions of Future Occupiers

4. The appeal site was formerly part of the car park of the three storey International House. That building was in office use, but has been converted to
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residential flats. Prior Approval has also been given to convert Duggard House, on the opposite side of Moss Road, from an office to use as dwellings. Nevertheless, the prevailing uses in the area are commercial and industrial.

5. No noise assessment has been submitted. The Davenport Kitchens unit is located to the rear of the appeal site and has external plant on its rear elevation. No information has been provided on the hours of operation of this unit. On the site visit I found that the external plant emits a steady noise. The noise is noticeable and intrusive¹ from Moss Road and likely to be more so when experienced from the appeal site. The Anytime Fitness gym is located to the south of the appeal site and the Council advises that it is open 24 hours per day. Whilst it is separated from the appeal site by a car park and service road, noise disturbance in the form of vehicle engines starting and voices could be expected from comings and goings from that car park, particularly late at night.
6. Paragraph 123 of the National Planning Policy Framework (the Framework) advises that planning decisions should avoid noise from giving rise to significant adverse impacts and that existing businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. I consider that the level of noise from the sources described above would be likely to adversely affect the living conditions of future residential occupiers of the appeal site.
7. In the absence of a noise assessment, any indication of the position, orientation or aspect of the proposed building, or any suggested mechanism for securing potential mitigation measures, I consider that it has not been adequately demonstrated that the proposal would provide satisfactory living conditions for future occupiers with regard to noise. As such, the proposal would conflict with Policy DP1 of the Council's Development Policies 2010 (DP) insofar as the policy requires proposals to protect residential amenity with regard to noise. Nor would it accord with the Framework or the PPG in this regard.
8. In reaching this conclusion, I recognise that International House is in residential use. However, by virtue of its siting, that building is less directly exposed to noise from the plant at the rear of Davenport Kitchens than the appeal site and is also further away from Anytime Fitness and the car park.
9. The Council has also referred to potential harm from odours. However no substantive evidence to indicate where such odours come from has been provided and I was not able to detect any particular odours on the site visit. On the basis of the information available, therefore, I am not persuaded that, of itself, this consideration amounts to a robust justification for withholding permission.
10. The southern elevation of International House includes windows at first and second floor levels which face the appeal site at close range. Views from those windows, therefore, have the potential to reduce the privacy of future occupiers of the appeal site. However, the appeal site has a frontage onto Moss Road and an open aspect to the car park to the south. Since the appeal proposal does not seek to establish the scale or layout of the residential development, in my view there would be scope to position and orientate a building on the site

so as to avoid overlooking from International House, notwithstanding that flatted development may be more intensively occupied. These considerations could be controlled through the approval of reserved matters. To this extent therefore, the proposal would not conflict with DP Policies DP1 or DP12 inasmuch as they require development to protect residential amenity with regard to privacy.

11. Given the flexibility in the scale and layout of the proposal, it should also be possible to ensure that future occupiers are provided with adequate useable external space. As such, the proposal would not conflict with DP Policy DP16 which requires new residential development to provide a high standard of private amenity space.

Living Conditions of the Occupiers of International House

12. The considerations set out above would also allow for the siting, scale and massing of the new building to be arranged in a way that would avoid it having an overbearing presence close to the windows in the southern elevation of International House, even taking into account the potential intensity of the occupation of the building. Again, these details could be controlled at the reserved matters stage. As such, the proposal would not have a harmful effect on the living conditions of the occupiers of International House by reason of loss of outlook. In that regard, the proposal would not conflict with DP Policies DP1 or DP12 to the extent that they seek to protect residential amenity.

Character and Appearance

13. The vicinity of the appeal site is characterised by fairly large scale buildings formally laid out on a grid of straight roads. The appeal site sits between one such building and a surface car park. Taking into account that the proposal does not seek to establish the scale or layout of the building, I see no reason why any proposed building should necessarily be over-dominant, oppressive or disrupt the balance of the street scene. These concerns, along with landscaping and the appearance of the building, could be addressed at the reserved matters stage. Therefore, I find that the proposal would not have a detrimental effect on the character and appearance of the area and so would not conflict with DP Policy DP1 or Policy UR2 of the Council's Core Strategy 2008 insofar as they require development to achieve a high standard of design which respects and enhances the character of the site and its surroundings in terms of height, size, scale and massing.

Other Matters

14. The Council's submissions also allege conflict with its Backland and Infill Development Supplementary Planning Document. However, I am not persuaded that the appeal proposal amounts to backland or infill development. The site has a road frontage and is to the side, rather than the back, of International House. Nor is it a small gap in an otherwise built up frontage. The area to the south of the site is a surface car park, beyond which is a service road.
15. The Council considers that the approval of the proposal might jeopardise the validity of the prior notification approval for International House. However that would be a matter for the developers of International House and the Council.

16. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.

Conclusion

17. Whilst I have found that the proposal would not have harmful effects with regard to privacy, the provision of external space, the living conditions of the occupiers of International House or the character and appearance of the area, that does not outweigh my concern regarding the impact of noise on future occupiers. For that reason, the appeal should be dismissed.

Simon Warder

INSPECTOR