



Appeal Decisions

Inquiry held on 9 and 10 June 2009

Site visit made on 19 June 2009

by **John Felgate BA (Hons), MA, MRTPI**

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

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Decision date:
30 July 2009

Appeal 'A' Ref: APP/Y5420/A/09/2093786

Land to the rear of 27-47 Cecile Park, Hornsey, London N8 9AX

- 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 Mithril Homes Limited against the decision of the Council of the London Borough of Haringey.
- The application Ref HGY/2008/1020, dated 1 May 2008, was refused by notice dated 17 December 2008.
- The development proposed is "to demolish 39 no. existing garage lock-ups and construct 5 no. two/three storey 3 bed houses with associated landscaping and 10 no. parking spaces".

Appeal 'B' Ref: APP/Y5420/A/09/2093789

Land to the rear of 27-47 Cecile Park, Hornsey, London N8 9AX

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
- The appeal is made by Mithril Homes Limited against the decision of the Council of the London Borough of Haringey.
- The application Ref HGY/2008/1021, dated 1 May 2008, was refused by notice dated 17 December 2008.
- The application proposes the demolition of the 39 existing garages on the site.

Decision

1. I dismiss Appeal A.
2. I allow Appeal B, and grant conservation area consent, for the demolition of the existing garages at the rear of 27-47 Cecile Park, Hornsey, London N8 9AX, in accordance with the terms of the application Ref HGY/2008/1021, dated 1 May 2008 and the relevant details contained in the submitted plans.

Application for costs

3. Following the Inquiry, an application for costs was made by the appellant against the Council. That application is the subject of a separate Decision.

Procedural matter

4. Further submissions were also received after the close of the Inquiry, from the appellant and from the Hornsey Conservation Areas Advisory Committee (HCAAC), regarding the status of the Council's SPG11a, and clarifying the nature of HCAAC's original comments on the appeal application. Whilst all such matters should normally be raised during the inquiry itself, in this case I consider that these late representations should be accepted, in the interests of fairness to all parties.
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Planning background

5. In 2001, a scheme for 7 houses and one flat, with 14 parking spaces or car ports and 26 lock-up garages, was dismissed on appeal (APP/Y5240/A/01/1058981). The Inspector in that appeal found that the mass and bulk of the terraced arrangement, and the likely loss of trees due to basement excavations, would cause unacceptable harm to the character and appearance of the Crouch End Conservation Area.
6. In 2005 a scheme for 6 detached houses, 9 parking spaces and 12 garages (APP/Y5420/A/04/1149813) was also dismissed. On that occasion, the Inspector found that the changes to the design and layout overcame the harm caused to the Conservation Area by the previous proposals. However, she considered that these changes would give rise to unacceptable overlooking and overbearing impacts on the occupiers of some of the neighbouring properties in Elm Grove and Tregaron Avenue.
7. In December 2007, a third appeal was heard, relating to a scheme of 5 houses with 10 parking spaces (APP/Y5420/A/07/2037862). The scheme involved further changes to both the layout and design compared to the 2005 proposals. In her decision, dated January 2008, the Inspector found that the scheme would now provide satisfactory living conditions for existing and future occupiers. But she also considered that the changes to the elevational treatment would result in a style and pattern of development that would detract unacceptably from the Conservation Area's character and appearance.

Main issues

8. In the light of this background, and all of the submissions now before me, I consider that the main issues in the present appeals are as follows:

Appeal A

- the effects on the living conditions of neighbouring occupiers, and those of the future occupiers of the proposed development itself;
- the effects of the proposed design and layout on the character and appearance of the Crouch End Conservation Area;
- the effects of the loss of the existing garages on the supply of car parking spaces in the area; and any consequent effects in terms of congestion, highway safety or visual impact due to additional on-street parking.

Appeal B

- the effects of the proposed demolition on the character and appearance of the Conservation Area.

APPEAL A

Relevant Planning Policies

9. In the UDP¹, Policy UD3 requires new developments (amongst other aims) to protect the amenity of residential occupiers; complement the character, nature and scale of the local area; and not to significantly affect the local highway network or traffic conditions. In addition, Policy UD4 seeks a high quality of design, including regard for the spatial and visual character of the site and the

¹ Haringey Unitary Development Plan, adopted July 2006

local street scene. In Conservation Areas, Policy CSV1 seeks to ensure that developments preserve or enhance the historic character and qualities of their surroundings, and respect the area's character and appearance.

10. National policy in PPS3² encourages the most efficient use of land, in order to provide of a wide choice of housing, especially in sustainable locations. PPG13³ advocates a reduction in parking provision in urban areas in order to encourage more sustainable modes of transport. PPG15⁴ sets out advice on development in conservation areas. Similar policies are also contained in The London Plan.

Reasons for decision

Effects on living conditions

11. In the 2008 decision, the Inspector found that living conditions for existing and future occupiers would be acceptable, as noted above. In the present scheme, four of the proposed dwellings (referred to at the Inquiry as plots 1-4) would be sited almost identically to the 2007/08 proposals, and the sizes and fenestration of those units would likewise be similar to that previous scheme.
12. In so far as those four plots are concerned, I concur with the view of the 2008 Inspector. Although the existing houses in Tregaron Avenue and Elm Grove have short gardens, the new buildings would be set on lower ground; they would also be reasonably compact in their design and would have no upper floor windows facing south. Consequently, they would not be unduly intrusive to the properties beyond this boundary. In relation to the houses in Cecile Park, the dwellings on plots 1-4 would be sited some 6m from the site's northern boundary, and in the circumstances, I consider that their effects would be acceptable.
13. However, in the case of plot 5, the new dwelling would be sited only about 2m from the boundary of No 47 Cecile Park. This siting would be significantly closer to the boundary than in the 2007/08 proposals. Given its proximity and higher ground level, it seems to me that in this position the proposed dwelling would have an unacceptably overbearing and over-dominant visual impact on the outlook from No 47 and its garden. Although there are trees on the boundary, these would not screen the new building all year round. And in any event, there is no proper evidence before me as to whether those trees would be likely to survive building works in such close proximity.
14. The new dwelling would also have main windows on both ground and first floors facing this boundary. Those at first floor level would overlook No 47's garden from such close range that a significant loss of privacy would occur. Indeed, at this range, serious overlooking would still be likely in my view, even if the lower panes were to be obscured, as suggested at the Inquiry. Whilst it might be possible to overcome the this problem by minor changes to the design, no such alternative details are before me. And in any event, a condition to that effect would not overcome the dwelling's visual impact. I appreciate that the siting now proposed would maximise the spacing from Elm

² Planning Policy Statement 3: Housing (2006)

³ Planning Policy Guidance 13: Transport (2001)

⁴ Planning Policy Guidance 15: Planning and the historic Environment (1994)

Grove, but for the above reasons, I consider that the impact of plot 5 on living conditions at No 47 Cecile Park would be unacceptable.

15. In addition, given their proximity to the boundary, it appears that plot 5's north-facing windows would be heavily overshadowed; either by the existing trees, if these were able to be retained, or alternatively by any new landscaping and other boundary treatments which would otherwise become necessary here. The two main bedrooms, kitchen and lounge would all suffer substantial obstruction to their light and outlook when the trees are in leaf. Any thinning to relieve this overshadowing would only worsen the other impacts that I have identified above. I therefore consider that living conditions for the occupiers of plot 5, sited as now proposed, would be likely to be unsatisfactory. This reinforces my concerns regarding the effects on the existing occupiers adjoining that plot.
16. I accept that the shape and topography of the site makes it difficult to develop, and I agree that in such circumstances compromises are sometimes justified. Consequently, although the new dwellings on plots 1-4 would also be overlooked and overshadowed, and would have little amenity space, I consider that in these cases the shortcomings are not so serious as to warrant refusal of permission, particularly in the light of previous decisions concerning the site. But this does not overcome my concerns regarding Plot 5, which follow directly from the change in the siting of the building compared to the earlier schemes.
17. I appreciate that the Council has raised no objections relating to living conditions. But the issue is before me in the submissions of a number of other parties, including HCAAC, GLC-RAG and others, and was aired at the Inquiry, including in my questions to the appellants' witness.
18. For the reasons explained above, I conclude that the siting and design of the dwelling on plot 5 would not protect the amenity of the occupiers of No 47 Cecile Park, nor would it provide acceptable living conditions for that dwelling's own future occupiers. In these respects, the appeal scheme would fail to comply with the relevant provisions of Policy UD3.

Effects of design and layout on the Conservation Area

19. The most recent of the previous appeal schemes, in 2007/08, was found to cause harm to the Conservation Area, due to the design and elevational treatment. However, the earlier 2005 scheme was judged to be acceptable in that regard. In the present appeal scheme, the design and appearance of the dwellings would be generally similar to those proposed in 2005. I concur with that Inspector's view that these aspects would be acceptable. Moreover, compared to the 2005 plans, fewer units are now proposed, and no lock-up garaging, and thus the present scheme would be less intensive and more spacious. In so far as these changes would affect the development's impact on the character and appearance of the area, I consider the changes to be unobjectionable, and indeed beneficial. Consequently it seems to me that the present appeal proposals would overcome the objections that led to the dismissal of the 2007/08 appeal.
20. I note the concerns raised by HCAAC, and by the Gladwell-Landrock-Cecile Park Residents' Action Group ('GLC-RAG') and other residents, regarding various aspects of the design and layout. I accept that the mansard roofs at first floor

level, and the Dutch-style detailing of the dormers and gables would contrast with the area's prevailing Victorian and Edwardian architecture. But even in conservation areas, there is no requirement that development should necessarily copy that which exists, indeed PPG15 specifically rejects that idea (paragraph 4.17). In my view that advice is especially pertinent on such a well contained and concealed backland site as here. In this case, it seems to me that the features that I have referred to would make for an interesting and unusual small development, with its own internal consistency and unity of design. In my view the quality of the design would be acceptable, and the overall appearance of the development would therefore be satisfactory.

21. I also acknowledge the view expressed by some parties that any development within this backland area, between the existing streets, would conflict with the area's characteristic pattern of development. But the present use of the site for garaging is itself clearly a departure from the land's original use, and the existing buildings make no positive contribution to the area's qualities. I see no reason why the development pattern should not be allowed to continue to evolve in response to changing circumstances, provided that the area's special architectural and historic interest is not harmed. Given the importance that PPS3 gives to the provision of housing in urban areas, the development now proposed would reflect society's changing needs. In any event, the appeal scheme would involve only a small number of buildings, of relatively low height, and its visual impact would thus be slight. Consequently I do not consider that harm would be caused to the area's development pattern.
22. In all the above respects, I conclude that the proposed development would preserve the special character and appearance of the Crouch End Conservation Area. However, I also note the submissions from a number of parties with regard to trees. Whilst no detailed information or assessment is before me, I have no reason to disagree with the Inspector's comments in the 2008 decision, and in so far as the trees affected by Plots 1-4 are concerned (including the TPO tree), I see no reason why these could not be adequately safeguarded by conditions. But at paragraphs 12-14 above, I have explained my concerns with regard to the proposed dwelling on Plot 5, which would be sited differently from the earlier proposals. In part those concerns relate to the proximity of that proposed unit to trees on or near the boundary. In the absence of any evidence to the contrary, it appears to me that the future health of the trees in the vicinity of Plot 5 would be likely to be put at risk by the present scheme; due to both the direct impact of the proposed construction works, and the likelihood of future pressure for their removal or reduction. In my view any such loss of trees would be likely to harm the area's character and appearance.
23. As a result of this latter consideration, relating solely to the trees affected by Plot 5, I conclude that the scheme fails to comply with the relevant provisions of Policies CSV1, UD3 and UD4.

Effects of the loss of the existing garages

24. In the 2001 appeal decision, the Inspector found that the net loss of 14 of the existing garages would not have a significant adverse impact on on-street parking. In the 2005 decision, the Inspector held that the loss of 25 garages would cause no harm. The 2007/08 proposals involved the loss of all the

garages, but the Inspector concluded that the scheme should not fail in that regard. Nevertheless, I have relied on my own observations, and on the evidence before me during the present appeal.

25. From my visits to the area, I accept that the area around Cecile Park is under considerable pressure for on-street parking. Whilst the introduction of the controlled parking zone (CPZ) has evidently reduced the level of day-time parking in nearby streets, Cecile Park is excluded. And in any event, the peak demand is in the evenings and overnight, when the CPZ does not operate. These observations are confirmed by the evidence of the Council's survey, which shows high levels of night-time occupancy in some nearby streets, and instances of parking on corners or across dropped kerbs. Although that survey pre-dated the CPZ, and excluded part of Cecile Park, its findings have some relevance, particularly in relation to the eastern part of Cecile Park itself and some of the adjoining streets. I have no doubt at all that the pressures on parking space in the area cause frequent inconvenience, and sometimes considerable stress, to residents. I accept that this reduces the quality of life in the area, and I sympathise with those who have made these points. However, it seems to me that these conditions are not unusual in an inner London Borough; indeed they appear typical of many similar areas nearby. Furthermore, whilst I acknowledge the concerns that have been expressed about safety, there is no evidence before me of any serious accident record, nor anything else to suggest that traffic or parking around the appeal site give rise to higher levels of danger or risk than other residential streets in the area.
26. The proposed development would result in the loss of 39 garages. However, the appellants maintain that they are mostly used for storage, and although there is only limited evidence to support that claim, there is also none to refute it. Local residents report that some garages are used, or have been used, for various purposes other than parking, including sawing logs and storing exhibition floats. Recent evidence regarding the Gladwell Road garages (rear of 60-88 Cecile Park) showed that the great majority on that site were used for some form of storage. *Manual For Streets* also contains survey findings that across the country between 36% and 45% of garages are used for storage. During my visits to the appeal site and the area, I saw no vehicles entering or leaving the site, nor any visible signs of any useable vehicles being kept there. If many of the garages were used for parking, given the number of properties that back onto the site, I would have expected this to be known to residents and to the Council, but there is nothing before me to that effect. Whilst I accept that the evidence is somewhat unsatisfactory, on balance it seems most likely that the number of vehicles that would be displaced from the site by the proposed development would be relatively few.
27. Furthermore, there is clear evidence that few of the garage tenants live close to the appeal site. Indeed only about six give addresses in Cecile Park or any of the adjoining streets, whereas more than half of the total are outside the Crouch End or Hornsey areas altogether. In most of these cases, it seems likely that any vehicles that might be displaced would have no obvious reason to be parked close to the appeal site once the garages were removed. Consequently, the effects would be spread over a wide area, rather than concentrated in Cecile Park or any of the adjoining streets. Whilst I accept that some existing kerbside spaces might also be lost due to the need for

- restrictions around the site access, it seems likely that these would be few in number. Overall, taking account of the likely numbers of vehicles at the site, and the geographical distribution of the tenants, I consider that the effect on parking demand and traffic in the vicinity of Cecile Park is likely to be slight.
28. I appreciate that some may feel that any increase in on-street parking, however widely dispersed, can only worsen the existing problems. But in this case there is no objection by the Highway Authority, and no technical evidence of any kind to support the view that danger or serious obstruction would be likely to result. Unlawful or dangerous parking could in any case be dealt with through the enforcement of existing controls. Consequently I see no basis on which to find that the appeal proposal would significantly affect the highway network or traffic conditions, which is the relevant criterion in Policy UD3.
29. In addition, the appeal site is close to a main bus route, reportedly carrying 26 buses an hour, and within walking distance of several railway stations, providing good access to central London and to the major transport interchange at Finsbury Park. In my view therefore, it is a highly sustainable location. The scheme would also add to the local housing stock, and would make fuller use of the land. In all these respects, the appeal proposals are in accordance with national and London-wide policy aims. I consider those policies particularly relevant in this appeal, because their underlying premise is that the intensification of housing in sustainable locations is a necessary part of an integrated solution to both housing and transport problems. In this context, it seems to me that any minor harm that might result from the appeal proposal, in terms of additional parking or congestion, would be outweighed by the scheme's contribution to sustainable transport objectives.
30. I fully understand the views of those who argue that, irrespective of their current usage, the garages could be put to better use, especially if let or sold to local residents. I accept that there is support for that view in the Council's survey. However, whilst a policy to retain garages was included in the 1998 UDP, that policy ceased to have effect in 2006. There is no equivalent policy in the current development plan, nor apparently in any emerging DPD. I note the reference by some objectors to Policy CW2, which protects community facilities, but I can see nothing to suggest that that policy is meant to apply to garages. My attention was also drawn to draft supplementary guidance in SPG3c⁵ and SPG11a⁶. However, neither of these documents was ever progressed as far as becoming formally adopted, and I note that the Council itself does not place any reliance on them in this appeal. Consequently, I consider that little weight should be given to either of these in my decision.
31. I note the Council's contention that Policy HSG11 shows the existence of extreme parking pressures in the area, but this does not change my view of the issues in this case, based on the reasoning set out above. I also note the contents of the appeal decisions relating to the Gladwell Road garages site (APP/Y5420/E/05/1181972) and Alford House (APP/Y5420/A/04/1161239). But those cases involved other sites, with their own individual circumstances, whereas my decision is based on my observations of the present appeal site and on the evidence put before me.

⁵ SPG3c: Backlands Development (Haringey Council, September 2003)

⁶ SPG11a: Car repair Workshops and Garages (Haringey Council, September 2003)

32. I acknowledge the Council's further argument that the displacement of parked vehicles, or the loss of the opportunity for off-street parking, would cause visual harm to the Conservation Area. But in my view that argument is tenuous at best. On the Council's own evidence, the area is already fully parked at times. For the reasons given already, I consider it unlikely that the proposed development would add noticeably to that existing level, even if further capacity existed. I accept that if it were possible to relieve the area of on-street parking, its appearance would be improved. But I see no realistic prospect that such an outcome could be brought about under current policies, irrespective of my decision on this appeal.
33. For these reasons, I conclude that the loss of the existing garages would cause no significant harm, nor would it conflict with any of the development plan policies identified at the Inquiry.

Other matters and conclusions on Appeal A

34. I have had regard to all the other matters raised, including those relating to access for larger vehicles, wildlife, housing policies, and the lack of an infrastructure contribution. However, I find none of these matters determinative in this case.
35. For the reasons set out above, I have concluded that the loss of the existing garages would not cause any significant harm. However, I find that the siting of the proposed dwelling on Plot 5 would give rise to unacceptable living conditions, both for its own future occupiers, and for the occupiers of No 47 Cecile Park. I also find that the same proposed dwelling would be likely to have an adverse impact on nearby trees, causing unacceptable harm to the character and appearance of the Crouch End Conservation Area.
36. Appeal A is therefore dismissed.

APPEAL B

37. UDP Policy CSV7 seeks to resist demolition in conservation areas, where this would give rise to an adverse impact on the area's character or appearance. In this case however, it was agreed that the existing garages make no positive contribution to the area. Indeed, in my view they detract from it, due to the ugliness of their design; their lack of visual relation to the houses that give the area its special character; and the outworn condition of the buildings and site.
38. I appreciate that PPG15 advises that consent for demolition should not be given unless there are acceptable plans for redevelopment, and I note the Council's concern to avoid dereliction. But in this case, it seems to me that these considerations are outweighed by the continuing visual harm caused by the garages' retention. In the circumstances, I conclude that their demolition would cause no harm, and thus would not conflict with Policy CSV7.
39. Appeal B is therefore allowed, unconditionally.

John Felgate

INSPECTOR

DOCUMENTS TABLED AT THE INQUIRY

- 1 List of conditions suggested by the Council.
- 2 Council's notification letter to interested parties, sent on 12 May 2009.
- 3 Extracts from Haringey UDP, adopted July 2006.
- 4 Details of other garages for rent in Crouch End area, tabled by Mr Chivers (on behalf of the Council).
- 5 Set of photographs of car parking in the surrounding area on 4 June 2009, tabled by Mr Groves (on behalf of the appellants).
- 6 Statement of Common Ground, signed by both parties.
- 7 Plans relating to the 2005 appeal decision (APP/Y5420/A/04/1149813).
- 8 Plans relating to the 2005 appeal decision (APP/Y5420/A/07/2037862).
- 9 Officers' report relating to application HGY/2007/1866 – Gladwell Road garages site (r/p 60-88 Cecile Park).
- 10 Refusal notice HGY/2007/1866 (as above).
- 11 Dudrich Holdings' advertisement card, offering garages to let, tabled by the appellants.
- 12 Set of photographs of the site and parking in the surrounding area, tabled by Mr Chivers (replacing those contained in Mr Chivers' Appendix 1).
- 13 Tree Preservation Order, dated 10 March 1977.
- 14 Letter from Dr W G Smith, of 31 Cecile Park.
- 15 Written statement by Councillor David Winskill (representing Crouch End Ward).
- 16 Ordnance Survey plan showing the location of Alford House site, Stanhope Road.
- 17 Written statement by Mr Bob Maltz, on behalf of Hornsey Conservation Areas Advisory Committee.
- 18 Further written submissions by Mr Maltz, on his own behalf.
- 19 Schedule of tenancies at Gladwell road garages, tabled by Mr Maltz.
- 20 Photograph and copy email relating to damage caused at Prime Zone Mews, tabled by Mr Maltz.
- 21 Extracts from Lynne Featherstone MP's web pages, tabled by the appellants.

DOCUMENTS RECEIVED AFTER THE CLOSE OF THE INQUIRY

- 22 Appellant's costs application, dated 15 June 2009 (including further representations on SPG11a: Car Repair Workshops and Garages).
- 23 Letter from Mr Maltz, dated 20 June 2009; with comments on SPG11a, and copies of HCAAC's representation and extract from Officer's report.
- 24 Council's response to costs application, dated 25 June 2009.
- 25 Appellant's final comments on costs application and SPG11a, dated 30 June 2009.



Costs Decision

Inquiry held on 9 and 10 June 2009

Site visit made on 19 June 2009

by **John Felgate BA (Hons), MA, MRTPI**

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for Communities and Local Government

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Decision date:
30 July 2009

Costs application in relation to Appeal Ref: APP/Y5420/A/09/2093786 Land to the rear of 27-47 Cecile Park, Hornsey, London N8 9AX

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mithril Homes Limited, for a full award of costs against the Council of the London Borough of Haringey.
- The inquiry was in connection with an appeal against refusals of planning permission and conservation area consent for the demolition of 39 existing garages and the construction of 5 two- and three-storey, 3-bedroom houses.

Summary of Decision: The application is allowed in the terms set out below in the Formal Decision and Costs Order.

Submissions for the Appellant

1. The Council had taken seven months to determine the application. No proper reason had ever been given for that delay. Prior to determining the application, the Council had failed to respond to requests for information about the application's progress, or to engage in discussions about objections.
2. The planning officer's report had given incorrect and incomplete information to the committee regarding the Council's surveys and other information which related to the wrong site. The report also failed to refer to the findings of the previous appeal decisions at the present site relating to parking issues, although it dealt at length with decisions relating to other sites. The Committee was also not informed about the legal advice submitted by the appellants. Consequently, the Council's decision was inconsistent with previous inspectors' decisions, and with the Council's own position in previous appeals.
3. Prior to the Inquiry, the Council had again failed to discuss relevant matters, or to cooperate in producing the statement of common ground.
4. In the appellants' submission, the Council's refusal of permission was unreasonable because it had been based on faulty information and advice. The appeal should therefore not have been necessary. In addition, unnecessary expense had been incurred in chasing the Council for responses, and in obtaining Counsel's opinion, prior to the committee meeting.

Response by the Council

5. The length of time taken to deal with the application was not unduly long given the complexity of the matter, the number of objectors, and the previous planning history. There was insufficient evidence to confirm whether the appellants' account of the negotiations was accurate. But in any event, the
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appellants had certainly been aware of the likely recommendation since October 2008, and an appeal could have been lodged against non-determination to shorten the timescale.

6. Despite the admitted cutting and pasting of some sections of the officer's report, it was clear which site the report referred to, and no confusion had resulted. The previous decisions and surveys relating to the Gladwell Road garages site were pertinent, because the parking issues were closely related. The previous decisions relating to the appeal site itself were referred to elsewhere in the report, but in those cases the Council had not objected to the loss of parking, and the Inspectors had been given less information about that issue. They were therefore less relevant than the Gladwell Road case, and the latter was also more recent.
7. The surveys of parking stress and the demand for garages were new information that justified the Council's change of stance on those issues. Members had also taken account of residents' concerns and relevant policies. There had been no obligation on officers to comment on the appellants' legal opinion, but in any event the appellants acknowledge that members were aware of it in reaching their decision.
8. The statement of common ground had been dealt with properly and was agreed before the start of the Inquiry. The Council had behaved reasonably throughout.

Reasoning

9. I have considered this application for costs in the light of Circular 8/93 and all the relevant circumstances. The Circular advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused unnecessary expense.
10. Although of the report presented to the planning committee on 8 December 2008 was not intentionally misleading, I agree that Section 5, dealing with the existing garages, was confusing and ambiguous. In my view that section of the report failed to make any clear distinction between the information that related to the Gladwell Road site, which was copied from an earlier report, and that relating to the present appeal site. Whilst I accept that the parking and garage surveys have some relevance to this site, their main focus and purpose related to Gladwell Road, and that should have been made clear. In addition, the report also contained some completely erroneous information, such as the reference to the Drivers Jonas letter, and comments from HCAAC which related to a different application. In all these respects there was an unreasonable lack of care in the Council's handling of the application, which is likely to have had a bearing on the committee's decision to refuse planning permission.
11. But in my view the most serious flaw in the officer's report was that Section 5 also failed to refer to the three previous appeal decisions on the site itself. Although these decisions were referred to elsewhere in the report, committee members could not have been expected to know that those decisions had dealt with the garage issue. In all three cases, whilst the Inspectors accepted that the area was subject to parking pressures, they nevertheless concluded that the loss of garages should not prevent redevelopment from taking place. In

none of those three cases did the Inspectors express reservations due to any lack of information. Whilst I agree that the Gladwell Road decision was relevant too, in omitting all of the appeal decisions that related directly to the present appeal site, I consider that the officer's report lacked the required degree of balance and objectivity on that issue. In the circumstances, this was unreasonable. From all that I have seen and heard, it seems to me that this failing is likely to have been especially instrumental in influencing the Council's eventual decision.

12. In the light of that flawed report, the planning committee made a decision to refuse permission, relying wholly on the issue of the loss of the garages. As such, that decision was directly contrary to the conclusions of the three Inspectors regarding this site, and contrary to the Council's own position at all of those previous appeals. It was also contrary to the advice of the Highway Authority. The only reasons given for that change of stance were the 2006 Gladwell Road appeal decision, and the Council's subsequent surveys relating to parking and garage demand. However, it seems to me that the survey results provided little information that was not already obvious. Indeed, all of the previous Inspectors had acknowledged the parking problems. I accept that the evidence of the potential demand for garages was new, but in my view the Council failed to properly weigh that information against the lack of any garage policy in the development plan. Similarly, for the reasons give above, the Gladwell Road decision should have been viewed in a more balanced way, alongside the decisions relating to the present site.

Conclusions

13. As a result, I conclude that the Council's action in refusing planning permission was an unreasonable one, based on a reason that could not be, and was not, substantiated. Although my decision is to dismiss the appeal in respect of planning permission, my reasons for so doing are quite different from those relied on by the Council. I am therefore satisfied that the appeal would not have been necessary had it not been for the Council's unreasonable behaviour. Consequently, I agree that the appellants should be awarded their full costs in connection with the appeal.
14. I agree that the delay in determining the application, and the Council's failure to keep the appellant informed of the reasons, or to engage in meaningful discussions, were also unreasonable. But in view of my conclusion above, these do not affect my decision.

Formal Decision and Costs Order

15. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers enabling me in that behalf, I HEREBY ORDER that the Council of the London Borough of Haringey shall pay to Mithril Homes Limited, the costs of the appeal proceedings, such costs to be assessed in the Supreme Court Costs Office if not agreed. The proceedings concerned an appeal under section 78 of the Town and Country Planning Act 1990 as amended, and sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990, against the refusal of planning permission and conservation area

consent for the demolition of 39 existing garages and the construction of 5 houses, on land at the rear of 27-47 Cecile Park, Hornsey, London N8 9AX.

16. The applicant is now invited to submit to the Council of the London Borough of Haringey, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, the enclosed guidance note gives details of how to apply for a detailed assessment by the Supreme Court Costs Office.

John Felgate

INSPECTOR