



**Statement of Case: Flat A, No. 40 Earlham Street, London WC2 appeal against the refusal(s) of a planning application and listed building consent (LPA Ref: 2022/0560/P & 2022/2098/L)**

## 1 – INTRODUCTION

1.1. This Appeal Statement has been prepared by Shape Planning on behalf of our client, Martin Vander Weyer in support of an appeal against the refusal(s) of an planning application and listed building consent at Flat A 40 Earlham Street (hereinafter ‘the Site’)(LPA Ref: 2022/0560/P & 2022/2098/L).

1.2. The appeal is submitted under Section 78 of the Town and Country Planning Act 1990 (as amended) against the London Borough of Camden’s (the Council) decision to refuse permission for:

*Installation of rear balcony with metal grille front and hinged floor sections, including associated replacement of rear window with timber French doors.*

1.3. The application was submitted on 15 June 2022. The application was determined by the Council on 1 December 2022.

1.4. The reason for refusal put forward by the Council are:

*1) The proposed balcony and French doors, by virtue of their detailed design, siting, scale, form and materials, would add unnecessary visual clutter, resulting in an unsympathetic addition which harms the character and appearance of the host building to the detriment of its special architectural and historical interest as a listed building, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan (2017).*

1.5. The appellant disputes the reason for refusal and considers that a comprehensive planning package was submitted to ensure the design quality of the proposal meets the high standards of preserving the special and historical interest of the Listed Building and Conservation Area.

## 2 – PLANNING HISTORY

**2014/4095/L** (Flat C) - Internal alterations to flat at 2nd floor level. Listed building consent granted 14/07/2014

**2010/5276/P & 2010/5452/L** (Flat H) - Installation of air conditioning condenser unit and erection of trellis screening fence atop existing rear lift shaft and replacement of front and rear sliding aluminium doors to 4th and 5th floor maisonette (Class C3). Planning permission & listed building consent granted 06/12/2010

**PSX0204930 & LSX0204931** (25 Shelton Street & 36-40 Earlham Street) - Refurbishment and extension of 25 Shelton Street to provide additional office (Class B1) floorspace, together with access from Shelton Street and Earlham Street including alterations to existing alleyway through grade II listed building to provide a new pedestrian entrance to office development at 25 Shelton Street. Planning permission & listed building consent granted 24/03/2004 & 07/04/2004 respectively.

**P14/57/B/HB2156(R)** (36 - 40 Earlham Street) – Addition of fourth and fifth floors, addition at the rear for lifts and servicing, and works of rehabilitation. Planning permission granted 26/10/1979

**P14/57/B/28193(R)** (36, 38 and 40 Earlham Street) - Alterations and additions to provide residential accommodation (7 flats and 2 maisonettes) and 2 shops. Planning permission granted 17/10/1979

**P14/57/3/21306** (40 Earlham Street) - Change of use from residential use to workshops. Planning permission granted 14/01/1976

### **3 – PLANNING POLICY CONSIDERATIONS**

3.1. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. In this instance, the development plan comprises of The London Plan (2021) and the Camden Local Plan (2017).

#### National Planning Policy Framework (2021)

- Chapter 2 – Achieving sustainable development
- Chapter 11 – Making efficient use of land
- Chapter 12 – Achieving well designed places
- Chapter 16 – Conserving and enhancing the historic environment

#### The London Plan (2021)

- D3 – Optimising site capacity through the design led approach
- D4 – Delivering good design
- D6 – Housing quality and standards

#### Camden Local Plan 2017

- A1 - Managing the impact of development
- D1 – Design
- D2 – Heritage

#### Camden Planning Guidance

- CPG Design 2021 - chapters 1 (Introduction), 2 (Design excellence) and 3 (Heritage)
- CPG Home Improvements (January 2021) – Chapter’s ‘Key principles’ (pages 16-32), ‘Materials’ (pages 36-37), ‘Rear extensions’ (pages 40-41) and ‘Balconies and terraces’ (pages 54-55)
- CPG Amenity 2021 – chapters 1 (Introduction), 2 (Overlooking, privacy and outlook) and 6 (Noise and vibration)

#### **4 – STATEMENT OF CASE (AGAINST REASON OF REFUSAL)**

The proposed balcony would be built sympathetically to the historic and architectural constraints of the listed building, by way of minimal alteration to the building fabric and prefabricated and modular addition to the rear elevation. The principle of the proposal follows the precedents of several modern additions already established to the rear elevation of the building, including the full-length balconies to Flats G and H on the 4th floor and French windows with small balconies on the second and third floor residential units within the host building.

#### **Policy D1 (Design) of the Camden Local Plan (2017) states:**

*The Council will seek to secure high quality design in development. The Council will require that development:*

- a. respects local context and character;*
- b. preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;*
- c. is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;*
- d. is of sustainable and durable construction and adaptable to different activities and land uses;*
- e. comprises details and materials that are of high quality and complement the local character;*
- f. integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;*
- g. is inclusive and accessible for all;*
- h. promotes health;*
- i. is secure and designed to minimise crime and antisocial behaviour;*
- j. responds to natural features and preserves gardens and other open space;*
- k. incorporates high quality landscape design (including public art, where appropriate) and maximises opportunities for greening for example through planting of trees and other soft landscaping,*
- l. incorporates outdoor amenity space;*
- m. preserves strategic and local views;*
- n. for housing, provides a high standard of accommodation; and*
- o. carefully integrates building services equipment.*

*The Council will resist development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.*

#### **Policy D2 (Heritage) of the Camden Local Plan (2017) states:**

*The Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens and locally listed heritage assets. Designated heritage assets Designated heritage assets include conservation areas and listed buildings. The Council will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and Listed Buildings, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- a. the nature of the heritage asset prevents all reasonable uses of the site;*
- b. no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation;*
- c. conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- d. the harm or loss is outweighed by the benefit of bringing the site back into use.*

*The Council will not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm*

*Listed Buildings Listed buildings are designated heritage assets and this section should be read in conjunction with the section above headed 'designated heritage assets'. To preserve or enhance the borough's listed buildings, the Council will:*

- i. resist the total or substantial demolition of a listed building;*
- j. resist proposals for a change of use or alterations and extensions to a listed building where this would cause harm to the special architectural and historic interest of the building; and*
- k. resist development that would cause harm to significance of a listed building through an effect on its setting.*

The proposed development is designed to ensure that the context, character and heritage of the host building is respected whilst also demonstrating a high standard of design. The alterations to the first floor would be suitable of its intended use, ensuring a modern and contemporary addition to the building which respects the historical value of the building.

The proposed development relates to a residential unit (Flat A) and comprises proposed works at first floor level only to the rear elevation of the building, which faces into a courtyard surrounding by tall buildings on all sides.

Paragraph 7.23 (Amenity Space) of the Camden Local Plan (2017) states that “applicants are therefore encouraged to explore all options for the provision of new private outdoor space”. The principle of a terrace/balcony addition would significantly increase the quality of residential accommodation which would be upgraded to match the quality of the upper floor flats within the host building.



Caption: French window at rear of Flat F 3<sup>rd</sup> Floor

The addition of a balcony would increase the residential premises robustness with regards to durability, this would ensure the Flat is flexible and adaptive to modern living requiring suitable private amenity space in upgrading to a good standard of residential accommodation. The host building is a Grade II Listed Building. From the inception of design, the proposal has been created around ensuring the preservation and enhancement of the heritage asset. This includes designing a balcony which would ensure less than substantial harm to the special architectural and historical interest of the building.

The metal grille front allows a durable, robust material to provide suitable screening protection of the balcony. The use of this material would be sympathetically attractive to the texture, colour, tone and compatibility with existing materials of the host building. The relationship of materials would complement the building and local fenestration of others to respect the character and heritage personality of the Seven Dials Conservation Area. The proposed materiality could also be conditioned if necessary, and further details provided or amended to ensure confidence in material selection.

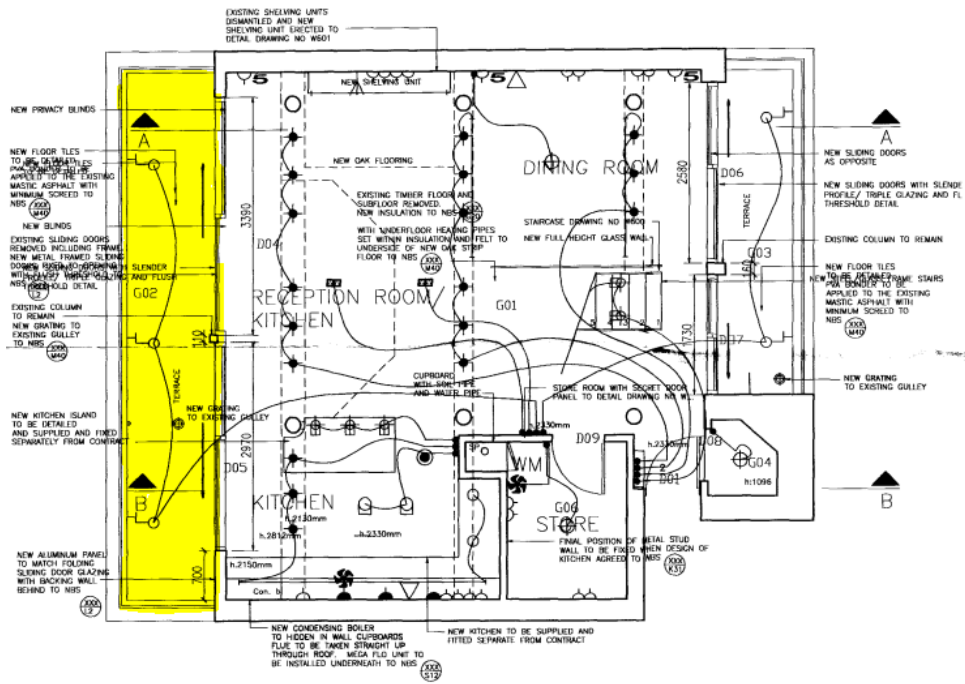
Given that the proposed alterations would affect only the rear of the building, the character and appearance of the Seven Dials (Covent Garden) Conservation Area and the special architectural interest of the listed building at the front would be preserved - there would be no material harm to the conservation area.



As you can see from the photographs, the second and third floor levels have a Juliet style balcony inserted to the left-hand side of the rear elevation and accessed by French windows. Whilst these may not be original features of the building, they respect and preserve the integrity of the traditional and historical pattern. Whilst it is appreciated that the Juliet balconies have no formal planning permission, they should be a material consideration when assessing this application. The French windows constitute a direct precedent for the proposal. The installation of the full width balconies at fourth floor level (FLAT H 2010/5276/P & 2010/5452/L) demonstrates that a full width balcony at first floor level would contribute to a repeating rhythm and pattern of fenestration. It is therefore considered that these additions/alterations would not add unnecessary visual clutter to a secondary elevation, located to the rear of the building outside the view of public realm.

The proposed projection of the balcony would be similar to that of the fourth floor balconies to Flats G and H, and therefore the impact of the integrity of the listed building would not be harmed more than what is currently established. The benefits of the scheme outweigh any less than substantial harm. The rear façade would appear more complete, enhancing the functionality and longevity of the buildings operational use.

In this plan of Flat H, you have highlighted the **front balcony in yellow**, not the **rear balcony** on the righthand side of the plan. It needs a caption 'Plan of Flat H highlighting rear balcony'.



1 Proposed 4th Floor Plan - Scale 1:50  
W100 40H Earlham Street, London



As seen from the photograph the full width balcony at fourth floor level (FLAT G). Whilst not be original features of the building, the full width balcony respect and preserve the integrity of the traditional and historical pattern. This should be a material consideration when assessing this application.

During the application process the case officer elaborated in his email correspondence as follows 'retaining the integrity of the building, original architectural intention and fabric are

*important considerations as they essentially provide the significance of the building which in this instance is the simplicity and rhythm of the rear elevation’.*

Whilst the well preserved front elevation is the architecturally significant aspect of this building, the rear elevation was extensively compromised by the 1979-80 renovation, namely by the addition of a full-height modern brick projection at 38, a rendered blank wall of the ground floor rear extension of 36, the change of two upper windows (2<sup>nd</sup> and 3<sup>rd</sup> floor) at 36 from sash to French opening with balconettes, numerous gas heating fixtures, and full width balconies on the two modern penthouse maisonettes, G and H. See Section 4. Planning History of Applications and Adjoining sites in the Planning Statement submitted as part of the planning application identifying the planning permission for the works identified above.

As such, the ‘simplicity’, ‘rhythm’ and ‘original architectural intention’ of the Georgian rear elevation are no longer evident. All that remains of the original fabric is the brickwork, which is unaltered by this proposal.



The sash windows are not original woodwork but remade in period style. The sills are modern replacements. The changed from sash to French of the two windows directly above the appeal site constitutes a precedent. The proposed French window at Flat A would add symmetry to the fenestration.



The full width balconies of G and H are also clear precedents.





It should be emphasised that the proposed balcony does not project from the existing building. It sits above and matches the horizontal dimensions of the rendered rear extension of the ground floor shop space at 36. It is our opinion that an elegant simple balcony rail would improve the somewhat brutal appearance of the rendered wall as seen from the courtyard.

The outer fixings of the balcony would be to the parapet of the rear extension and the side wall of the full height 1979 projection; the inner fixings to the original brickwork would be largely hidden under the sills.

It must be noted that there are no internal alterations proposed at the appeal site.

During the application process the case officer emailed stating that the proposal should retaining the integrity of the building, original architectural intention and that the fabric are an important consideration as they essentially provide the significance of the building; which in this instance is the simplicity and rhythm of the rear elevation’.

It is our opinion that the below approved development did not preserve the integrity of the building and therefore should be taken into account as a clear precedent.

Application No:	Address	Development	Decision	Date
2021/4242/L	36 Earlham Street	The insertion of a flue outlet in a light of the basement level sash window, a glazed screen in the rear section of the ground floor, lowering of the window opening	Granted	04/11/2021

		(without a window) to the rear of the ground floor.		
<u>2021/3272/P</u>	36 Earlham Street	Use of the basement and ground floors for retail and dog grooming (Use Class E).	Granted	19/07/2021

## 5 – CONCLUSION

Due to their secluded location and sensitive design the proposed development would not harm the character and appearance of the listed building or the Seven Dials conservation area. The design would be sympathetic to the fabric of the rear façade, ensuring a positive contribution in completing a rhythmic sequence to the rear elevation which is out of public view. Any harm would be less than substantial when outweighed by the merits and quality of the proposed scheme. The proposed development would satisfy the requirements of Policy D1 (Design) and D2 (Heritage) of the Camden Local Plan (2017). Taking into account previous points mentioned with the original submission, it is requested that the appeal be ALLOWED, and planning permission and listed building consent GRANTED.