

Pre-Hearing Note

APPEAL: APP/X5210/W/23/3315974

Proposed Development: rooftop extension to create 7 residential dwellings.

Site address: Howitt Close, Howitt Road, London NW3 4LXP.

Appellant: Daejan Properties

Local Planning Authority: London Borough Council of Camden

Background

1. A one-day hearing relating to the above appeal will take place at 10.00 am on TUESDAY 4 July 2023 at Camden Council, 5 Pancras Square, London. It will be conducted by Jonathon Parsons, MSc BSc (Hons) DipTP Cert(Urb) MRTPI who is the Inspector appointed by the Secretary of State (SoS) to determine the appeal.
2. The purpose of this pre-hearing note is to explain how the event will operate in a fair, open and transparent way and what should be done to ensure it runs smoothly.

Format

3. The Inspector will start the event in the usual way by running through several preliminary matters. A preliminary agenda is at the end of this note, but it could well change. If it changes significantly, a final version final will be issued before the event.
4. The hearing will be run as a structured discussion with the Inspector asking a series of questions in respect of the main issues. All parties who so wish, will be given an opportunity to speak. The Inspector will ensure there are regular breaks. These will probably take place between discussions on the main issues and are likely to be every hour or so.

General administrative matters to be considered

5. There is a submitted agreed Statement of Common Ground (SOCG) and on a without prejudice basis, agreed set of planning conditions. There is also a final draft of a s106 agreement. Amongst third party representations, there is a planning and heritage submission by Firstplan on behalf of residents and leaseholders of the Howitt Close.
6. As indicated, there is a draft agenda for discussion. To aid discussion, there are number of points worth highlighting at this stage.

- (a) Status of the decision by Historic England not to list Howitt close building in light of new information. What is the timescale for DCMS to review the decision?
 - (b) Defining and important architectural, aesthetic, historic and artistic qualities of Howitt Close and the Conservation Area.
 - (c) The effects of the proposal on Howitt Close and the Conservation Area, having regard to detailed design, bulk, massing, height and materials.
 - (d) If harm is identified, the public benefits to be identified taking into account Planning Practice Guidance.
 - (e) Effects of development on sunlight and daylight to surrounding residential properties.
 - (f) Car-free housing. Does the wording of the draft S106 comply with legal precedent, *Westminster City Council v SSCLG & Mrs Marilyn Acons [2013] EWDC 690 (admin)*. In this judgement, the obligation was concerned with achieving car free development and prevented the owner from applying for a street parking permit in the following terms, 'The owner... undertakes ... not to apply to the Council for a parking permit in respect of the land...'. This obligation was found not to comply with the strict terms of s106(1) because it did not relate to the use of land. This case has now been followed in the Court of Appeal case of *R (oao Khodari) v Royal Borough of Kensington and Chelsea & Cedarpark Holdings Inc [2017] EWCA Civ 333*.
7. Late evidence – All documents and evidence should be already have been provided in accordance with the timescales set out in the relevant appeal procedures, or as above in agreement with the Council. Late evidence is not encouraged. If parties decide to submit late evidence, the Inspector will determine to accept it or not at the hearing. In considering whether or not to accept, any party are reminded that the Inspector will be asking why it was not received within the timetable set out in the appeal procedure rules, the extent of prior notification and consultation with other parties, and will also be requesting the views of opposing party(ies). As with any submissions of evidence outside of the appeal timescales, there is a risk of a cost application being made by the opposing party, which an Inspector would have to consider if this occurred.
8. Participants lists - Before the hearing, a list of participants from the Council and appellant is required.
9. Additional references: If parties introduce or quote from documentation not already referred to either within appeal statements, the Inspector may require copies of such documentation. Other parties may have to be given an opportunity to consider such documentation which may require adjournment. Such parties may also submit a cost application for any additional expense incurred, if this occurs, and the Inspector would have to consider this. The exception to this course of action are planning documents in common planning and heritage usage, such as National Planning Policy Framework and National Design Guide.

- 10.Cost applications – No cost application has been made and none is invited. However, if an application is to be made, it should be succinct and relevant. If an overly long and repetitive application is made, the Inspector may require amendment and a summary to be made.

Detail of the Agenda

- 11.The detail of the agenda is set out below. Please be aware that the Inspector will not need to cover every issue and consideration arising from the appeal proposals. The Inspector may feel that there is enough evidence relating to such issues/considerations.

Site Visit

- 12.The Inspector will be making an accompanied site visit on the day of the hearing.
- 13.Provisional Agenda is detailed overleaf.

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Hearing date: Tuesday 4 July 2023

Appeal by Daejan Properties

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1. Procedural Matters

- Updates
- NDHA/Local listed

2. Main issues/considerations

- (a) Significance of Howitt Close and Conservation Area
- (b) Effects of proposal on significance of heritage assets
- (c) Public benefits
- (d) Daylight and sunlight effects

Having regard to local and national planning policy, and material considerations, including appeal decisions.

3. Other matters

4. Planning Obligation

5. Conditions

6. Planning balance

7. Costs, site visit and closing of the hearing.