



APPEAL BY:
Mr John Clarke

AGAINST THE LONDON BOROUGH OF CAMDEN COUNCIL'S REFUSAL
TO GRANT PLANNING PERMISSION FOR:

Erection of timber conservatory to side (King Henry's Road) elevation

AT:

St Johns Lodge, Harley Road, London, NW3 3BY

London Borough Camden Council's Reference: 2022/2203/P

WRITTEN REPRESENTATIONS: GROUNDS OF APPEAL

April 2023

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1.0 INTRODUCTION

1.1 This statement has been prepared by RJS Planning, on behalf of Mr John Clarke, in support of the appeal lodged against the refusal of planning application reference 2022/2203/P.

1.2 The application was dated 24th November 2022 and sought planning permission for the ‘*Erection of timber conservatory to side (King Henry's Road) elevation*’ at St Johns Lodge on Harley Road in London. The application was subsequently refused under delegated authority on 17th January 2023 for the following reasons:

1. *The proposal, by way of it siting, size/height and design/materials would be an incongruous addition to the building, adversely impacting the appearance of the building and the character and appearance of the Conservation Area. As such, the proposal is contrary to policies D1 (Design) and D2 (Heritage) of the LB Camden Local Plan, the London Plan 2021 and the NPPF 2021.*
2. *In the absence of a Daylight Assessment insufficient evidence has been provided to demonstrate that the proposal would not result in a loss of daylight to the bedroom window of the lower ground floor flat. Furthermore, due to its height, design, extent and proximity to the bedroom window, the proposed development including the stairs would result in a loss of outlook, increased sense of enclosure and loss of privacy to the occupiers of the lower ground floor flat. The proposal is therefore contrary to policy A1 (Managing the impacts of development) of the LB Camden Local Plan 2017, the London Plan 2021 and the NPPF 2021.*
3. *In the absence of an Arboricultural Impact Assessment, the proposal does not demonstrate that the development would not have an adverse impact on protected trees on the site contrary to policy A3 (Biodiversity) of the LB Camden Local Plan 2017, the London Plan 2021 and the NPPF 2021.*

1.3 These grounds of appeal will address the central concerns raised within the council’s reasons for refusal, notably:

- Whether the proposal would have an adverse impact on the appearance of the building and the character and appearance of the Conservation Area; and,
- Whether would result in a loss of light, outlook, privacy, and increased sense of enclosure to the lower ground floor flat; and
- Whether the proposal would have an adverse impact on protected trees.

1.4 To set some context, this statement will first provide a description of the appeal site and the proposed development. This statement will then discuss the relevant

national, regional and local planning policy before responding to the council's concerns.

2.0 THE SITE

- 2.1 The appeal site is located on a corner plot at the junction with King Henry's Road and Harley Road. The property is located within the Elsworth Road Conservation Area however, the host building is unlisted.



Aerial view of the appeal site and surrounding area

- 2.2 St Johns Lodge is a three storey with basement building that has been subdivided into four self-contained flats.



St Johns Lodge

3.0 THE PROPOSED DEVELOPMENT

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- 3.1 The appeal proposal sought planning permission for the '*Erection of timber conservatory to side (King Henry's Road) elevation*' at St Johns Lodge on Harley Road.



Proposed conservatory

- 3.2 The proposed conservatory will be located on the north eastern elevation of the building and due to the changes in ground level the conservatory will be built onto brick columns.
- 3.3 The existing external staircase will be removed, and a new staircase installed providing direct access into the proposed conservatory.
- 3.4 The conservatory will approximately measure 4.2m wide x 4.4m deep with a 4m high eaves and 4.6m ridge height. By reason of its design and materials of construction the development will harmonise with the architectural form and detailing of the host building.

4.0 RELEVANT PLANNING POLICY

4.1 The reasons for refusal refer to the National Planning Policy Framework (2021), the London Plan 2021 and Camden Local Plan policies A1 (Managing the impacts of development), A3 (Biodiversity), D1 (Design) and D2 (Heritage).

4.2 The following paragraphs provide a brief summary of the relevant policies. The paragraphs are in a hierarchical order relative to the importance of national and local planning policy.

National Planning Policy Framework (NPPF) 2021

4.3 The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The following sections and paragraphs make reference to the parts of the NPPF which are directly relevant to this appeal.

Presumption in Favour of Sustainable Development

4.4 Paragraph 11 of the NPPF sets out that plans and decisions should apply a presumption in favour of sustainable development.

Decision-making

4.5 Paragraph 38 states that local planning authorities should approach decisions on proposed development in a positive and creative way.

Achieving well-designed places

4.6 Section 12 of the NPPF refers to design, with paragraph 126 describing how the Government attaches great importance to the design of the built environment, stating that "*Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.*"

4.7 Paragraph 130 states that planning policies and decisions should ensure that developments:

- a) *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*

- e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

Conserving and enhancing the historic environment

- 4.8 Section 16 of the NPPF refers to the conservation and enhancement of the historic environment. Paragraph 197 sets out that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.
- 4.9 Paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 4.10 Paragraph 201 states any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 4.11 Paragraph 202 of the NPPF states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, where appropriate, securing its optimum viable use.

London Plan

- 4.12 Policies D3, D4 and HC1 are considered relevant.

Policy D3: Optimising site capacity through the design-led approach

- 4.13 All development must make the best use of land by following a design-led approach that optimises the capacity of sites, including site allocations. Optimising site capacity means ensuring that development is of the most appropriate form and land use for the site.

Policy D4: Delivering good design

- 4.14 For residential development it is important to scrutinise the qualitative aspects of the development design described in policy D6 Housing quality and standards.

Policy HC1: Heritage Conservation and Growth

- 4.15 Development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. The cumulative impacts of incremental change from development on heritage assets and their settings should also be actively managed

Camden Local Plan

- 4.16 Policies A1, A3, D1 and D3 were referred to within the given for refusal.

Policy A1: Managing the impacts of Development

- 4.17 The council will seek to protect the quality of life of occupiers and neighbours. The council will seek to ensure that the amenity of communities, occupiers and neighbours is protected. Factors will include visual privacy, outlook; sunlight, daylight and overshadowing; and artificial light levels.

Policy A3: Biodiversity

- 4.18 The Council will protect, and seek to secure additional, trees and vegetation. We will:
- j. resist the loss of trees and vegetation of significant amenity, historic, cultural or ecological value including proposals which may threaten the continued wellbeing of such trees and vegetation;
 - k. require trees and vegetation which are to be retained to be satisfactorily protected during the demolition and construction phase of development in line with BS5837:2012 'Trees in relation to Design, Demolition and Construction' and positively integrated as part of the site layout;
 - l. expect replacement trees or vegetation to be provided where the loss of significant trees or vegetation or harm to the wellbeing of these trees and vegetation has been justified in the context of the proposed development;
 - m. expect developments to incorporate additional trees and vegetation wherever possible.

Policy D1: Design

- 4.19 The council will seek to secure high quality design in development. The council will require that development respects local context and character; preserves or enhances the historic environment and heritage assets in accordance with policy D2.

Policy D2: Heritage

- 4.20 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.

5.0 THE APPELLANT'S CASE

Introduction

5.1 The appellant's case will focus on the central concerns of the reasons for refusal, notably:

- a) Whether the proposal would have an adverse impact on the appearance of the building and the character and appearance of the Conservation Area; and,
- b) Whether would result in a loss of light, outlook, privacy and increased sense of enclosure to the lower ground floor flat; and
- c) Whether the proposal would have an adverse impact on protected trees.

5.2 The main considerations in the determination of this appeal are:

- Design and Impact on the Conservation Area
- Impact on neighbouring amenity
- Impact on trees

Design and Impact on the Conservation Area

5.3 Paragraph 126 of the NPPF states that *"Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities"*.

5.4 As described in section 16 of the NPPF it sets out that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability to ensure that new development makes a positive contribution to local character and distinctiveness.

5.5 London Plan policies D3 (Optimising site capacity through design-led approach), D4 (Delivering good design) and HC1 (Heritage conservation and growth) collectively seek to attain high quality development that makes a positive contribution to the area and conserves the significance of heritage assets.

5.6 Camden Local Plan policies D1 (Design) and D2 (Heritage) seek high quality design in development that respects local context and character and preserves or enhances the historic environment.

5.7 The council refused the development citing that the proposal, by way of its siting, size/height and design/materials would be an incongruous addition to the building

which, in their opinion, would adversely impact the appearance of the building and the character and appearance of the Conservation Area.

- 5.8 In response the appellant rejects the council's claims and states that the scheme has been sensitively designed and positioned to ensure that it would appear as a high quality, appropriate addition to the host building that would not result in any harmful impacts on the quality and character of the area.
- 5.9 The appellant acknowledges the sensitive setting of the site within the Elsworth Road Conservation Area and thus, chose a design that would harmonise with the architectural detailing of the host building and be constructed in materials that would complement the setting.
- 5.10 The scale and height proposed ensure that the development would not compete with the architectural form, bulk and mass of the existing property which could still be appreciated in views through the foliage from Harley Road and King Henry's Road.



View of the appeal building from junction of Harley Road and King Henry's Road



View of St Johns Lodge from the northwest along King Henry's Road



View of St Johns Lodge from the north on King Henry's Road

- 5.11 The council consider that the development would be prominently sited, however, the appellant states that the prominence is mitigated by the mature trees and shrubbery which border the site.

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- 5.12 The proposed extension would be positioned approximately 1.6m from the northern boundary which would increase to 3.1m due to the position of the building in relation to the boundary line. The photographs included within this statement were taken in March and even when the trees are bare views through into the site are significantly restricted.



**Current view
from top of
existing steps**



**Proposed
location of
new
conservatory**

- 5.13 Whilst the council argue that the roof lantern would obscure the cornice of the building and the extension would cover the existing brick header at upper ground floor level with steps down to the garden, these features would not be lost, and the significance of the heritage asset could still be appreciated.



Existing detailing would not be lost due to the development

- 5.14 Therefore, the development would not result in any harmful impacts on the character and appearance of the building when viewed from within the site or from the wider area. Furthermore, the appellant considers that the context of the site should be taken into consideration as well as the appearance of the host building which has later been extended with St John's Studio which connected to the rear of St John's Lodge.



Context of the appeal site

- 5.15 Although the modern developments illustrated above are not within the Elsworthy Road Conservation Area due to their proximity to the appeal site they form part of the character of the area. As a consequence, the development proposed at St Johns Lodge would not detract from the wider setting.

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- 5.16 Given the above points, the appellant asserts that the special interest of the building and wider area could still be appreciated in a manner appropriate to their significance and the development would not result in any harmful or adverse impacts on the designated and non-designated heritage assets.
- 5.17 Should the Inspector be minded to conclude that the proposal would result in less than substantial harm, in these circumstances the NPPF advises that the harm should be weighed against the public benefit of the proposal including securing its viable use.
- 5.18 However, benefits do not always have to be accessible to the public in order to be genuine public benefits. Benefits can include sustaining the significance of a heritage asset; securing the optimum viable use of a heritage asset in support of its long term conservation.
- 5.19 In this instance the development would add additional habitable space to an existing dwelling which is supported by national, regional and local planning policy. As a result of the proposed changes, the development would improve the functionality of the dwelling and the residential amenity of existing and future occupiers of the flat.
- 5.20 In summary, the proposed development sustains the significance of the heritage asset, preserves the character of the host building and the visual amenities of the street scene by virtue of the sensitive design, scale, siting and materials of construction which would be sympathetic to the parent building.
- 5.21 Given the above points, the appellant considers that the council's reasons for refusal are unjustified as development would NOT adversely impact on the appearance of the host building or the character and appearance of the Conservation Area. Thus, the development would comply with the aims of the NPPF, London Plan policies D3, D4 and HC1 as well as policies D1 and D2 of the Camden Local Plan.

Impact on neighbouring amenity

- 5.22 Paragraph 130 of the NPPF states that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 5.23 London Plan policy D3 (optimising site capacity through the design-led approach) requires development to deliver appropriate outlook, privacy and amenity whilst policy D6 (Housing quality and standards) requires development to provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context.

- 5.24 Camden Local Plan policy A1 (Managing the impacts of Development) states that the council will seek to protect the quality of life of occupiers and neighbours.
- 5.25 The council refused the scheme citing that development and stairs would result in a loss of outlook, increased sense of enclosure and loss of privacy to the occupiers of the ground floor flat. In addition, the decision states that insufficient evidence has been provided that the proposal would also not result in a loss of daylight.
- 5.26 Taking the above policy requirements into account the proposed scheme has been sensitively designed and the location carefully considered to ensure that it would not result in unacceptable impacts on privacy, outlook, sunlight, daylight or overshadowing and as a result the appellant rejects the council's reasons for refusing the development on amenity impacts.
- 5.27 The appellant acknowledges the objection submitted by Create Planning on behalf of the occupiers of the lower ground floor flat but considers that concerns in relation to amenity impacts are overly exaggerated. The development by reason of its elevated position on brick columns would not break a 45 degree line of sight taken from the nearest habitable room window.
- 5.28 Therefore, by reason of the elevated position and the transparent appearance of the conservatory it would not result in an unacceptable loss of outlook as views would still be available out over the garden towards the side boundary wall.



Existing layout

- 5.29 The site is bordered by tall trees and shrubbery and there is additional planting to the front of the railings adjacent to the basement flat which already reduce outlook and access to natural daylight.
- 5.30 It is considered that the orientation of the host building in combination with the position, design and materials of construction collectively ensure that the development would not unduly reduce existing levels of sunlight or daylight by any noticeable amount.
- 5.31 With regard to privacy the scheme proposes to relocate the staircase to the south eastern side of the conservatory. The steps at ground level would be positioned approximately 5.3m from the side wall of the building which would decrease to 2.2m at the landing entrance to the conservatory.
- 5.32 Users of the steps would be focused on entering the property safely not using the access as a viewing platform to look through neighbouring windows. Moreover, views into the habitable room windows within the basement flat are already readily available from the communal gardens which surround the building and therefore, the staircase would not bring occupiers any closer to the basement windows than can already be achieved.
- 5.33 Therefore, taking the existing situation into account the development would not give rise to a material impact on the privacy of occupiers of the basement flat.
- 5.34 In summary, the proposed development would not result in any detrimental impacts on the living conditions of occupiers of the lower ground floor flat. Therefore, the scheme would comply with the aims of the NPPF, London Plan policies D3 and D6 and policy A1 of the Camden Local Plan.

Impact on Trees

- 5.35 The NPPF recognises that trees make an important contribution to the character and quality of an environment and that existing trees should be retained wherever possible whilst new trees are planted in the right places.
- 5.36 Camden Local Plan policy A3 (Biodiversity) states that the council will resist the loss of trees and vegetation of significant amenity, historic, cultural or ecological value including proposals which threaten the continued wellbeing of such trees.
- 5.37 The council refused the scheme citing that in the absence of an Arboricultural Impact Assessment the proposal does not demonstrate that it would not have an adverse impact on protected trees.

- 5.38 In response, the appellant states that they are fully aware of the value of the protected trees and the positive impact that they have on the site and wider area. The appellant also recognises the need to implement mitigation measures to ensure that the future health of the trees is not affected by development.
- 5.39 Due to the design of the conservatory, it would be positioned in an elevated position on top of brick columns. As a result, only a very small percentage of the structure would be within the root protection areas of the adjacent trees and it is therefore, felt that the proposed development would not have a detrimental impact upon the existing trees.
- 5.40 The brick columns would have a foundation that reduces the amount of excavation required for their construction which can be achieved with pile foundations. Due to the limited excavation required for this technique any impacts will be localised and kept to a very minimum.
- 5.41 Any protective fence and ground protection utilised on the site would fully comply with BS 5837:2012 (Trees in Relation to Construction – Recommendations). The fencing would be strong and suitable for local conditions and take into account the degree of construction activity on the site and the ground protection mats will be installed before any materials or machinery is brought onto the site.
- 5.42 Provided the protection measures are implemented the proposals would not detrimentally affect the trees or the character/appearance of the local area.
- 5.43 Taking the above information into account the appellant considers that details relating to tree protection measures and methods of construction could be subject to a condition of approval.
- 5.44 Therefore, subject to condition the proposed development would comply with the aims of the NPPF and with Camden Local Plan policy A3 which collectively seek to resist the loss of trees.

6.0 CONCLUSION

- 6.1 The proposed development by reason of its detailed design, size, scale, position and external materials would be a sympathetic addition to the host building that would preserve its contribution to the Elsworthy Road Conservation Area. As such, the proposal would have a positive impact on the character and appearance of the Conservation Area and the wider street scene.
- 6.2 The proposed development would also preserve the residential amenities of neighbouring occupiers and would not result in an unacceptable loss of daylight, outlook, increased sense of enclosure or a loss of privacy.
- 6.3 Furthermore subject to mitigation measures to protect the surrounding trees during the construction phase and the use of piling foundations would not result in the loss of any protected trees or affect their future health.
- 6.4 Therefore, the appellant states that the council's reasons for refusal are unsound as the proposal adheres with the aims of the National Planning Policy Framework (2021), the London Plan 2021 and Camden Local Plan policies A1 (Managing the impacts of development), A3 (Biodiversity), D1 (Design) and D2 (Heritage).
- 6.5 The National Planning Policy Framework (NPPF) states that decision-makers at every level should seek to approve applications for sustainable development where possible and that applications should be considered in the context of the presumption in favour of sustainable development. The proposed erection of a timber conservatory to the side elevation of St Johns Lodge would not be contrary to national, regional or local planning policy and, for the above reasons, it is politely requested that this appeal is allowed.