



# Appeal Decision

Site visit made on 15 December 2023

**by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 January 2024**

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**Appeal Ref: APP/X5210/W/23/3323840**

**139-147 Camden Road NW1 9HJ**

- 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 Mr Vijay Pindoria against the decision of the Council of the London Borough of Camden.
  - The application Ref 2022/4293/P, dated 4 October 2022, was refused by notice dated 6 March 2023.
  - The development proposed is the erection of a 4 storey block of flats with ground floor bin and bicycle stores and front paving and planting.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of development above is taken from the decision notice and appeal form as it provides more detail than the application form description.
3. The planning application was refused for 8 reasons. The Council indicated that reasons for refusal 4-8 could be addressed via a Section 106 legal agreement (S106). A completed and executed S106 dated 24 November 2023 has been provided by the appellant. The Council has not commented on the final S106 but given my overall decision it has not been necessary to consider it except where it would deliver any potential benefits.
4. An air quality assessment (AQA) dated June 2023 was provided with the appellant's initial appeal documents. Following my request, the Council provided comments on the AQA in an email dated 28 November 2023. The appellant was afforded the opportunity to respond to the Council's comments.
5. The appellant submitted two amended plans with the appeal to show the studio flats on the first and second floors as having only single beds rather than double beds. As these amendments are entirely internal changes, I do not consider that anyone would be prejudiced by them. Therefore, I have taken the amended plans into account.
6. The National Planning Policy Framework (NPPF) has been updated twice since the Council made its decision. The latest version is dated 19 December 2023. The main parties have been given the opportunity to comment on this version and I have taken any responses into account.

## Main Issues

7. The main issues are the effect of the proposed development on:

- (a) the character and appearance of the area, including Camden Square Conservation Area and Cantelowes Gardens;
- (b) the living conditions of future occupiers with regard to access and the size and layout of units; and
- (c) air quality.

## **Reasons**

### *Character and appearance*

8. Camden Road is a long straight road that forms part of the A503 heading north-east from Camden Town. It is lined with buildings on both sides for much of the section between St Pancras Way and Camden Park Road. Buildings typically range from 2 storey residential properties to 3-5 storey modern blocks, with some taller buildings nearer St Pancras Way. Most of the buildings are set back from the road by mature trees and front gardens. There is more architectural variety on the north-west side of the road, whereas the south-east side has greater consistency with Victorian villas forming the edge of Camden Square Conservation Area.
9. There is a notable gap in the otherwise broadly consistent townscape of this section of Camden Road. The public open space known as Cantelowes Gardens occupies a large area on the north-west side of the road adjacent to the appeal site and the railway line from St Pancras. Trees front the road along with a skatepark and multi-use games area. The gardens are enclosed on the north-west and north-east boundaries by residential terraces that are 3 storeys tall.
10. The conservation area is large and incorporates several residential streets of 19<sup>th</sup> century properties with 20<sup>th</sup> and 21<sup>st</sup> century infill development following changes such as wartime damage. Its character and appearance is greatly influenced by its architectural and historic interest as a planned suburban development that has evolved over time.
11. The focal point of the conservation area is the rectangular Camden Square, but the villas along Camden Road form a strong boundary and contrast with the more mixed development on the other side of the road. The properties nearest to the appeal site are grand 3 storey villas with semi-basements that elevate the ground floor above the road. The setting of this part of the conservation area is influenced by the open space of Cantelowes Gardens and the distinctive break in the townscape which make a positive contribution to the significance of the conservation area and its character and appearance.
12. The appeal site comprises an area of surface car park to the side of a single storey motor service centre that fronts directly onto Camden Road. The site is a narrow rectangular plot that tapers to the rear. Cantelowes Gardens lies immediately to the north with an orchard and 5 mature whitebeam trees next to the road, while the railway line is immediately to the west. The nearest whitebeam tree partly overhangs the site boundary.
13. The site, with its hardstanding, parked vehicles, and metal fence and gates along the front boundary, is visually poor. Nevertheless, its undeveloped state means that it forms part of the gap in the townscape and so contributes positively to the open setting of the conservation area and Cantelowes Gardens in this location as well as the overall character and appearance of the area.

14. The proposed development would be comparable in height to other buildings on this side of Camden Road and would not be taller than the eaves of the villas opposite. However, it would occupy the full width of its narrow plot with limited set back from the road and little in the way of planting unlike most nearby development on this road. The rectangular form and flat roof design is contemporary and could utilise quality materials with decorative brick detailing. However, the development would be isolated from buildings of a similar height on this side of the road and so would appear bulky, incongruous and overly dominant in the street scene.
15. While the development would not hugely overshadow Cantelowes Gardens and its plants and recreation spaces, it would significantly enclose the open setting along this boundary due to its height and extent of site coverage with no set back at the sides. The fact that buildings enclose other boundaries of the gardens does not justify the erosion of the more open setting on this side. The development would also be located right next to the 5 mature trees and although no arboricultural objection has been raised by the Council, works to the nearest tree would affect its shape and symmetry.
16. The lack of an active ground floor frontage due to the enclosed entrances to the bike and bike stores as well as the flats is fairly typical of other buildings along Camden Road given that it is a predominantly residential area. The full height windows are a contemporary take on the tall windows found at the villas opposite and some of the more modern developments nearby and so would not be particularly out of keeping for the area. However, while the detailed design of the development would be acceptable, its overall scale, location and site coverage would result in significant harm to the character and appearance of the area including Cantelowes Gardens.
17. The open setting to the conservation area would be partly eroded, resulting in less than substantial harm to its significance. While the harm would only be minor in magnitude, considering the overall size of the conservation area, NPPF paragraph 205 requires great weight to be given to the conservation of designated heritage assets irrespective of the level of harm. NPPF paragraph 206 requires clear and convincing justification for any harm, and NPPF paragraph 208 advises that less than substantial harm should be weighed against the public benefits of the proposal. This exercise is carried out below as part of the planning balance.
18. Concluding on this main issue, the proposed development would harm the character and appearance of the area, including Camden Square Conservation Area and Cantelowes Gardens. Therefore, it would conflict with Policies A2, A3, D1 and D2 of the Camden Local Plan 2017 (LP) which seek, amongst other things, development that respects local context and character, preserves heritage assets, protects trees, and avoids harm to the setting of designated open spaces or the character or appearance of conservation areas from development outside of such locations.
19. The development would also conflict with Policies D3, GO1 and SSP7 of the Kentish Town Neighbourhood Plan 2016 (NP) which, amongst other things, require proposals to be well integrated into their surroundings and reinforce and enhance local character, as well as protect local green spaces and ensure a high quality design approach for small sites.

20. The Council also cites conflict with LP Policy A3 which requires the protection and enhancement of biodiversity including trees. However, in the absence of a specific arboricultural objection or details regarding the effect of the development on the adjacent trees, I have not found conflict with this policy.

*Living conditions of future occupiers*

21. The second reason for refusal refers to the size of the units, the configuration of the front units, and the absence of a lift. Taking each in turn, apart from the third floor flat, the parties dispute whether the proposed units would meet the minimum internal space standards set out in the Nationally Described Space Standards (NDSS). The difference between the parties is marginal and appears to be based on how the area at the front doors is measured. Even on the Council's figures, the units would only be below the minimum standards by 0.3 to 0.7 square metres. Therefore, I consider that the internal spaces would be sufficient and are acceptable in this instance.
22. Turning to the next matter, the Council's delegated report raises concerns about the single aspect nature of the studio units at the front of the building and the lack of windows for the kitchen area. The supporting text to LP Policy D1 states that residential development in new build and change of use should be dual aspect except in exceptional circumstances. There is no apparent reason why the studio flats could not be dual aspect, for example by having a window on the side elevation where the kitchen area is located. Therefore, the configuration would not provide satisfactory accommodation.
23. Finally, with regards to lift access, LP Policy C6 expects all buildings to meet the highest practicable standards of accessible and inclusive design so they can be used safely, easily and with dignity by all. LP Policy D1 seeks development that is inclusive and accessible for all. LP Policy H6 requires 90% of new-build self-contained homes in each development to be accessible and adaptable in accordance with Building Regulation M4(2) and 10% to be suitable for occupation by a wheelchair user in accordance with Building Regulation M4(3). NP Policy D3 requires proposals to enhance accessibility in buildings.
24. There would be step free access from the street to the ground floor, but no lift access to the upper floors. This would mean 5 out of the 6 dwellings would not be accessible as required by LP Policy H6 in particular. Although there is no space to accommodate a lift, this is based on the proposed layout. It has not been demonstrated that it is not practical or viable to include a lift within the building footprint. Therefore, the development would not be sufficiently accessible as required by the above LP policies.
25. Concluding on this main issue, while the size of the internal spaces would be sufficient, it has not been demonstrated that the proposed development would provide satisfactory living conditions for future occupiers with regards to access and the layout of units. Therefore, it would conflict with LP Policies D1, H6 and C6 and NP Policy D3. It would also not accord with NPPF paragraph 135 which seeks a high standard of amenity for existing and future users of places.

*Air quality*

26. According to the Council, the London Atmospheric Emissions Inventory 2019 indicates that the site is within an area of very poor air quality with annual mean concentrations of nitrogen dioxide (NO<sub>2</sub>) above the national objective of

40µg/m<sup>3</sup>. Conversely, the nearest monitoring location on Camden Road several hundred metres to the south-west recorded annual mean NO<sub>2</sub> concentrations of 37µg/m<sup>3</sup> in 2021. While there were fewer vehicles on the roads in 2020-2021 due to the national Covid-19 lockdowns, the 2021 figure is part of a general improvement in concentration levels since 2016 when Camden Road levels stood at 62µg/m<sup>3</sup>.

27. The AQA predicts that the annual mean concentration of NO<sub>2</sub> within the proposed development in 2021 will be between 29µg/m<sup>3</sup> and 33µg/m<sup>3</sup>. This seems odd given that the nearest monitoring location recorded 37µg/m<sup>3</sup> in 2021. However, the recorded and predicted figures both indicate levels below the national objective for NO<sub>2</sub>. Based on these figures, it is not necessary for the proposed development to provide air quality mitigation for future residents.
28. The adjoining railway line is within 30m of the site and appears to be used by diesel trains. However, the appellant notes that this line is not subject to a heavy traffic of such trains which means that there is no risk of exceeding the national objective in terms of annual mean NO<sub>2</sub> concentrations. Thus, it has not been demonstrated that the AQA should assess the effects of the railway line as part of its overall modelling.
29. Effects relating to the construction phase regarding dust can be addressed via a condition requiring mitigation measures to be implemented. The increase in vehicles at the construction and operation phases of development is unlikely to be significant having regard to the relatively small size of the scheme and its effect on existing residents and wildlife. Building and transport emissions relating to the development can be secured as air quality neutral through appropriate heating systems and car-free measures.
30. In conclusion, based on the evidence before me, there would be an acceptable effect on air quality as a result of the proposed development. Therefore, the development would accord with LP Policies A1 and CC4. Amongst other things, Policy A1 seeks to protect the amenities of occupiers and neighbours having regard to factors such as odour, fumes and dust. Policy CC4 seeks to ensure that the impact of development on air quality is mitigated and exposure to poor air quality is reduced, noting that where an AQA shows that a development would cause harm to air quality or where housing is introduced in locations of poor air quality, mitigation measures will be necessary. The reason for refusal cites conflict with LP Policy H6, but this concerns housing choice and mix and so does not appear relevant to this main issue.

### *Planning balance*

31. The Council is unable to demonstrate a 5 year supply of deliverable housing sites. Consequently, NPPF paragraph 11(d) is engaged which states that where the policies which are most important for determining the application are out of date, planning permission should be granted unless one of two exceptions apply. The first exception in NPPF paragraph 11(d)(i) states the application of NPPF policies that protect areas or assets of particular importance (such as designated heritage assets) provides a clear reason for refusing the proposal. The second exception in NPPF paragraph 11(d)(ii) states that any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

32. Dealing with the benefits, the proposed development would provide 6 additional dwellings to the local supply. Whilst not a significant number, this nevertheless carries moderate weight based on the lack of a 5 year supply. The development would also make a moderate financial contribution towards the provision of affordable housing via the S106. The use of a small area of previously developed land that is currently only used for the parking of a handful of vehicles also carries moderate weight as a benefit. The above benefits can be regarded as public benefits for the purpose of NPPF paragraph 208. They individually and cumulatively carry moderate weight in favour of the proposal.
33. Starting with the heritage balance, the proposed development would result in minor less than substantial harm to the significance of the conservation area. While great weight should be given to the conservation of designated heritage assets, the heritage balance indicates that the public benefits would outweigh the harm in this instance. Thus, there would be no conflict with NPPF paragraphs 205, 206 or 208 and the first exception in NPPF paragraph 11(d)(i) would not apply.
34. Turning to the overall planning balance, the proposed development would cause significant harm to the character and appearance of the area including Canteloves Gardens and minor harm to the conservation area. It has also not been demonstrated that the proposed development would provide satisfactory living conditions for future occupiers with regard to access and the layout of units. Therefore, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. In conclusion, the proposed development would be contrary to the development plan with no material considerations to indicate that planning permission should be granted.

### **Other Matters**

35. Interested parties have raised concerns with several other matters. However, based on the overall planning balance, it has not been necessary to consider these in any detail.

### **Conclusion**

36. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Tom Gilbert-Wooldridge*

INSPECTOR