

## **FINAL COMMENTS**

**239 CAMDEN HIGH STREET  
LONDON  
NW1 7BU**

**PART-ONE- AND PART-TWO-  
STOREY REAR EXTENSIONS ...  
(A) TO CREATE TWO  
(B) WITH MANSARD ROOF  
OVER TO CREATE THREE  
... APARTMENTS ABOVE  
EXISTING HOT FOOD  
TAKEAWAY**

**FOR**

**CAPITAL QSR LIMITED**

**2022/3264/P & 2022/3265/P  
APP/X5210/W/23/3327715  
APP/X5210/W/23/3327716**

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## INTRODUCTION

These Final Comments have been prepared by SSA Planning Limited for Capital QSR Limited in respect of their appeal against the failure by Camden London Borough Council to determine their applications dated 29<sup>th</sup> July 2022 for part-one- and part-two-storey rear extensions (a) to create two or (b) with mansard roof over to create three apartments above existing hot food takeaway to 239 Camden High Street, London, NW1 7BU.

These comments follow numbering in the Delegated Report that effectively comprises the Borough Council's Statement of Case. The Site Description, Relevant History and Relevant Policies are common to both proposals. These and the descriptions of each proposal precede the numbered section. We comment on these as follows:

The site description section is inaccurate in stating that all floors are used as a hot food takeaway. Only the ground and first floor is so used. The second floor is used as part of an adjoining flat. This is clearly shown on the submitted survey drawings and referred to at reference PEX0000072 of the Borough Council's Relevant History.

The Relevant Policies section is incorrect in referring to Camden Local Plan Policy A2 as that relating to noise and vibration: Policy A4 is the relevant policy. Policies E1 and E2 are cited, but not analysed – these relate to uses formerly in the B Classes, none of which are present or proposed. We agree that the policies cited, A1, D1, H1, H4, H6, H7, T1, T2 and DM1 are relevant. We additionally consider D2 (g), H2 and C6 relevant.

The descriptions of each proposal are incorrect to state that the parapet would increase in height. The amended drawings show no change in its height and were submitted on 28<sup>th</sup> June 2023 in response to concerns in this regard.

N.B. There is a minor error on the existing drawings in that the front elevation does not show the dual-pitched roof to 241 Camden High Street. The rear elevation does show it. This will not have prejudiced any party as it relates to the existing position, which is hard to observe from the street and does not affect the proposed development.

N.B. There is also an error on the application forms, which state that the development does not qualify for vacant building credit. This is a matter of fact and policy.

## PROPOSAL 1 (2022/3264/P)

### 1 DETAILED DESCRIPTION OF PROPOSED DEVELOPMENT

1.1 The description is incorrect in the following ways:

- The first and second floors are not used as a restaurant – the first is used as part of a hot food takeaway, a use *sui generis*, and the second as part of an apartment. The additional second floor residential area is therefore 23.2 square metres and our calculation for the additional first floor residential area is 48.8 square metres.
- The rear extensions will not be the full depth of the plot – they will be about three-quarters and have less depth than those at 231-233.
- The description of work to the flue is correct.
- The front parapet will not be raised in height.
- The ground floor access and new shopfront are already in place under 2022/0563/P

### 2 PRINCIPLE OF DEVELOPMENT

2.1 The second floor is already used for residential purposes and the ground and first as a hot food takeaway, but the acceptability of residential in upper floors is noted.

2.2 ...

2.3 The acceptability of the minor loss of ground floor retail use to enable upper floor access is noted.

2.4 Reference to the retail floor area being in Class E is incorrect, as the hot food takeaway is a use *sui generis*.

### 3 DESIGN

3.1 For the avoidance of doubt, the proposed rear extensions are part-one-storey and part-two-storey.

3.2 We do not consider the proposed rear extensions markedly out-of-character with their surroundings, being of a similar form to other rear extensions in the same terrace and of a similar scale to those at 231-233.

3.3 Again, it is not proposed to raise the parapet.

3.4 The conclusion must thus be incorrect, at least in respect of the parapet, but arguably also in respect of the rear extensions.

## **4 STANDARD OF ACCOMMODATION**

4.1 We accept that, whilst the RICS Code of Measuring Practice includes stairwells in its definition of Gross Internal Area (GIA), for the purposes of the nationally described and London Plan Housing Standards, this would only apply to stairwells within the unit (that is, behind the door to the apartment). On excluding the common stairwell, we calculate the GIA of the first-floor unit to be 48.8 square metres. The discrepancy may be that the Borough Council is excluding the private lobby behind the apartment door.

4.2 Whilst we accept that one of the apartments would be slightly below standard, it is well-proportioned with good functionality, as the plan including furniture layout demonstrates. In our view, such a marginal lack of compliance should carry limited weight in the planning balance. The alternative of providing fewer larger units might be reasonable in a larger new-build scheme, but on this small site would comply less with Policy H2.

4.3 The acceptability of the proposed living conditions is noted and agreed.

## **5 AFFORDABLE HOUSING**

5.1 Whilst we note that Policy H4 seeks payments in lieu of affordable housing where more than 100 square metres of residential floor space is created, this must be read alongside National Planning Policy Framework (NPPF) paragraph 65 (formerly 64 as cited in our Statement of Case), which requires all reused floor space to be discounted.

5.2 Because the existing second floor is already in residential use, the residential floor space created would be 27.8 square metres less than that identified by the Borough Council.

## **6 AMENITY**

6.1 ...

## **7 TRANSPORT**

- 7.1 We note and agree the impracticality of providing enclosed cycle parking in this case.
- 7.2 Whilst we consider future occupants unlikely to park a car nearby, a planning obligation restricting them from applying for permits would represent a benefit. We are negotiating a planning agreement to that effect, but do not consider that a failure to do so would represent non-compliance as the policy is not prohibitively-worded.

## **8 PLANNING OBLIGATIONS**

- 8.1 ...

## **9 RECOMMENDATION**

- 9.1 We disagree with the reasons for refusal for the reasons set out above, in our Statement of Case, evidence and the application submission.
- 9.2 We agree with the suggested conditions.

## **10 JUSTIFICATION FOR S106 LEGAL AGREEMENT**

- 10.1 Whilst we note the rationale for seeking a planning obligation in respect of Policy T2, we reiterate that we do not consider one essential for compliance.

## **11 APPEAL SUBMITTED ON GROUNDS OF NON-DETERMINATION**

- 11.1 ...

## **12 RECOMMENDATION**

- 12.1 We disagree with the recommendation for the reasons set out above, in our Statement of Case, evidence and the application submission.

## **PROPOSAL 2 (2022/3265/P)**

### **13 DETAILED DESCRIPTION OF PROPOSED DEVELOPMENT**

13.1 The description is incorrect in the following ways:

- The first and second floors are not used as a restaurant – the first is used as part of a hot food takeaway, a use *sui generis*, and the second as part of an apartment. The additional second floor residential area is therefore 23.2 square metres and we calculate the additional first floor residential area to be 48.8 square metres.
- The rear extensions will not be the full depth of the plot – they will be about three-quarters and have less depth than those at 231-233.
- The description of the new mansard roof is correct except that we calculate the third floor apartment would have a GIA of 49.3 square metres.
- The description of work to the flue is correct.
- The front parapet will not be raised in height.
- The ground floor access and new shopfront are already in place under 2022/0563/P

### **14 PRINCIPLE OF DEVELOPMENT**

14.1 The second floor is already used for residential purposes and the ground and first as a hot food takeaway, but the acceptability of residential in upper floors is noted.

14.2 ...

14.3 The acceptability of the minor loss of ground floor retail use to enable upper floor access is noted.

14.4 Reference to the retail floor area being in Class E is incorrect, as the hot food takeaway is a use *sui generis*.

### **15 DESIGN**

15.1 For the avoidance of doubt, the proposed rear extensions are part-one-storey and part-two-storey.

- 15.2 We do not consider the proposed rear extensions markedly out-of-character with their surroundings, being of a similar form to other rear extensions in the same terrace and of a similar scale to those at 231-233.
- 15.3 Again, it is not proposed to raise the parapet. As demonstrated by the Street Geometry Diagram submitted with the appeal, the degree of rake to the front wall of the proposed mansard roof means that it would not be visible from the nearest side of the street behind the existing parapet and it would only be visible from the far side through a narrow angle.
- 15.4 The conclusion must thus be incorrect, at least in respect of the parapet, but arguably also in respect of the rear and roof extensions.

## **16 STANDARD OF ACCOMMODATION**

- 16.1 We accept that, whilst the RICS Code of Measuring Practice includes stairwells in its definition of Gross Internal Area (GIA), for the purposes of the nationally described and London Plan Housing Standards, this would only apply to stairwells within the unit (that is, behind the door to the apartment). On excluding the common stairwell, we calculate the GIA of the first-floor unit to be 48.8 square metres. The discrepancy may be that the Borough Council is excluding the private lobby behind the apartment door. We calculate the GIA of the third floor apartment to be 49.3 square metres.
- 16.2 Whilst we accept two of the apartments would be slightly below standard, they are well-proportioned with good functionality, as the plan including furniture layout demonstrates. In our view, such a marginal lack of compliance should carry limited weight in the planning balance. The alternative of providing fewer larger units might be reasonable in a larger new-build scheme, but on this small site would comply less with Policy H2.
- 16.3 The acceptability of the proposed living conditions is noted and agreed.

## **17 AFFORDABLE HOUSING**

- 17.1 Whilst we note that Policy H4 seeks payments in lieu of affordable housing where more than 100 square metres of residential floor space is created, this must be read alongside

National Planning Policy Framework paragraph 65 (formerly 64 as cited in our Statement of Case), which requires all reused floor space to be discounted.

17.2 Because the existing second floor is already in residential use, the residential floor space created would be 27.8 square metres less than that identified by the Borough Council. Furthermore, as all floor space except the extensions would be reused, only 4.7 square metres at the rear of the first, 36.2 square metres at the rear of the second and 63.6 square metres in the new third floor, totalling 104.5 square metres would be counted as under NPPF paragraph 65 (formerly 64 as cited in our Statement of Case). A floor space calculation demonstrating this is at **Appendix G**. This would result in a contribution of  $2\% \times 104.5 \times \text{£}5,000 = \text{£}10,450$ , which we will agree to as a planning obligation.

## 18 AMENITY

18.1 ...

## 19 TRANSPORT

19.1 We note and agree the impracticality of providing enclosed cycle parking in this case.

19.2 Whilst we consider future occupants unlikely to park a car nearby, a planning obligation restricting them from applying for permits would represent a benefit. We are negotiating a planning agreement to that effect, but do not consider that a failure to do so would represent non-compliance as the policy is not prohibitively-worded.

19.3 ...

## 20 RECOMMENDATION

20.1 We disagree with the reasons for refusal for the reasons set out above, in our Statement of Case, evidence and the application submission.

20.2 We agree with the suggested conditions.

## **21 JUSTIFICATION FOR S106 LEGAL AGREEMENT**

21.1 Whilst we note the rationale for seeking a planning obligation in respect of Policy T2, we reiterate that we do not consider one essential for compliance.

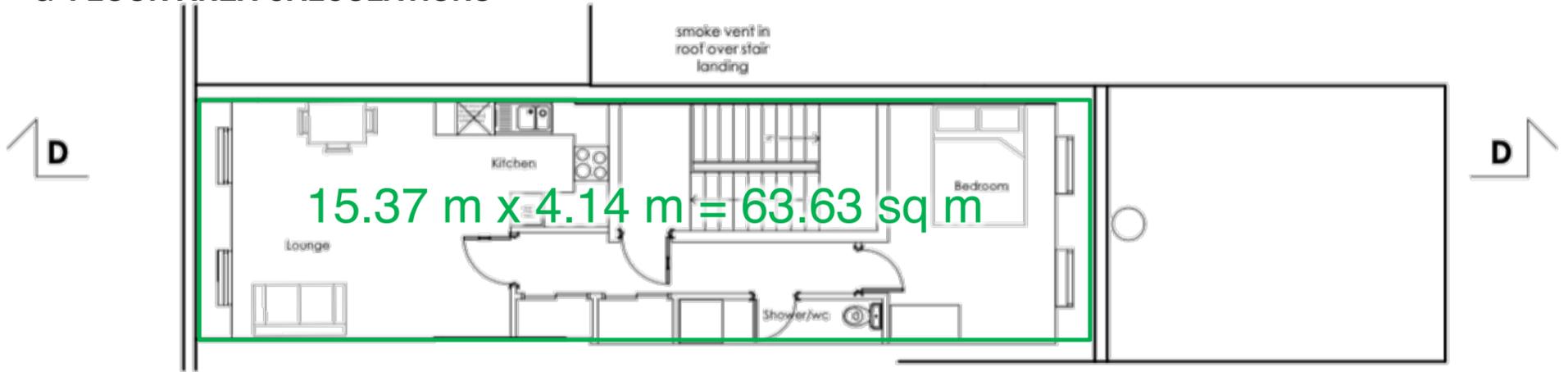
## **22 APPEAL SUBMITTED ON GROUNDS OF NON-DETERMINATION**

22.1 ...

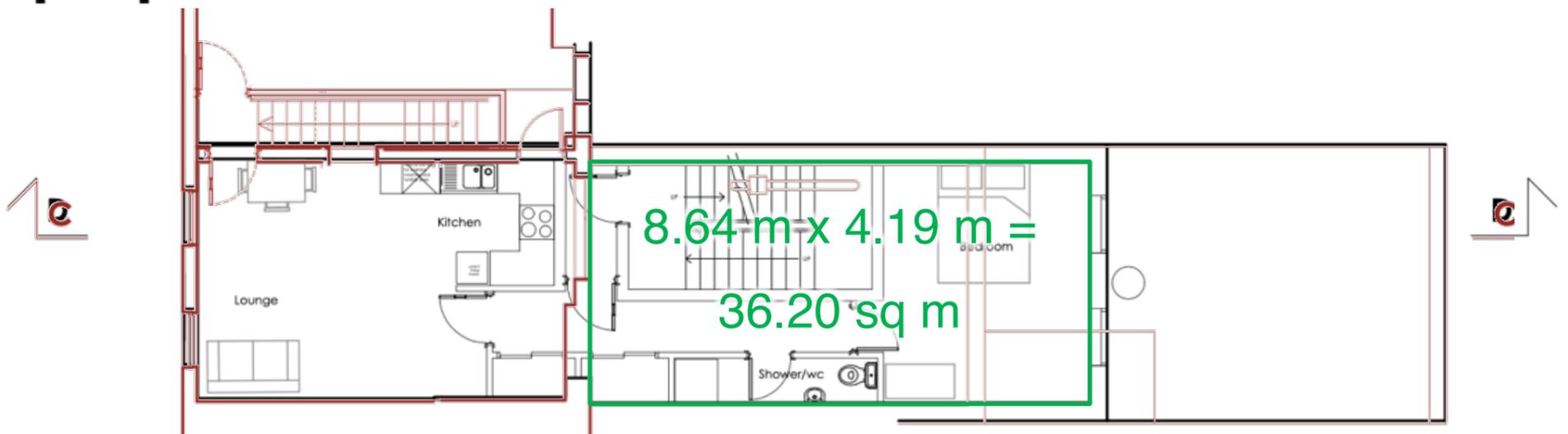
## **23 RECOMMENDATION**

23.1 We disagree with the recommendation for the reasons set out above, in our Statement of Case, evidence and the application submission.

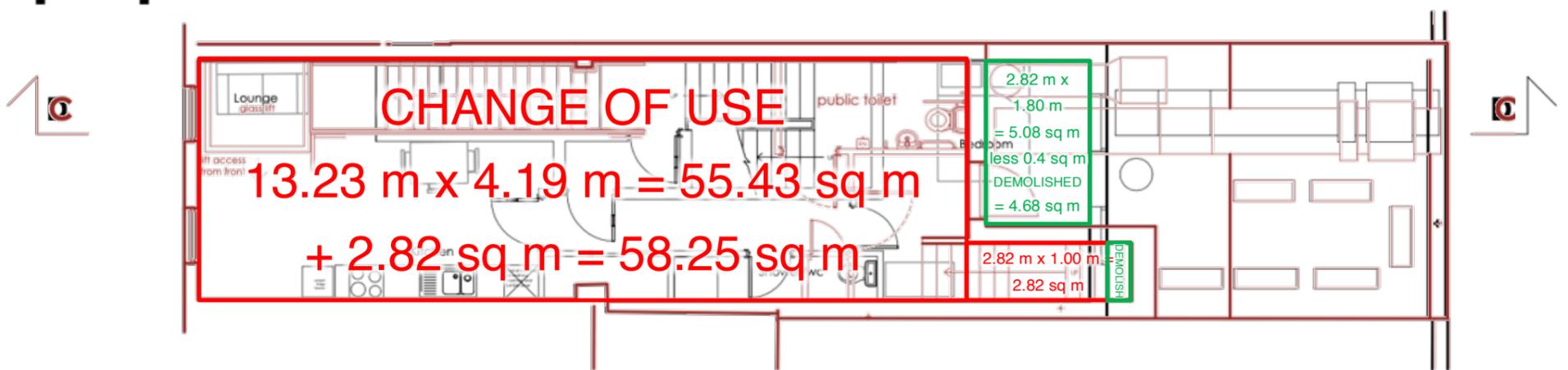
**G FLOOR AREA CALCULATIONS**



**proposed third floor**



**existing second floor**  
**proposed second floor**



**existing first floor**  
**proposed first floor**

