

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>	<b>27/10/2023</b>
		N/A		<b>Consultation Expiry Date:</b>	<b>06/11/2023</b>
<b>Officer</b>				<b>Application Number(s)</b>	
Alex Kresovic				<b>2023/3637/P</b>	
<b>Application Address</b>				<b>Drawing Numbers</b>	
239 Camden High Street London NW1 7BU				<i>See draft decision notice</i>	
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>		
<b>Proposal(s)</b>					
Erection of part-one- and part-two storey rear extensions with mansard roof over to create 3 x residential units above existing hot food takeaway.					
<b>Recommendation(s):</b>		Refuse Planning Permission			
<b>Application Type:</b>		Full Planning Permission			
<b>Conditions or Reasons for Refusal:</b>		Refer to Draft Decision Notice			
<b>Informatives:</b>					
<b>Consultations</b>					
<b>Adjoining Occupiers:</b>		No. of responses	<b>1</b>	No. of objections	<b>1</b>
<b>Summary of consultation responses:</b>		Site Notices: displayed 13/10/2023, expired 06/11/2023. One (1) objection was received from a neighbouring property at 220 Arlington Road (to the rear of the application site). The objection is summarised below: <ul style="list-style-type: none"> <li>- The location of the flue, both in terms of position and direction of terminal, will be detrimental to the residents in terms of smell and noise.</li> <li>- The extension would affect the daylight / sunlight received by some of the residents.</li> </ul>			
<b>Local Area Groups</b>		N/A			

## Site Description

The site is occupied by a 3 storey mid-terrace building on the western side of Camden High Street. The building has an existing single storey ground floor rear extension. The site is located within the Camden Town Centre.

The applicant property consists of a fast food takeaway on the ground and first floor, whilst the second floor is occupied for residential purposes.

With regard to the use of the upper floor of the Camden High Street properties, several adjoining non-residential uses occupy, and provide customer access to the first floor.

## Relevant History

### 239 Camden High Street (the application site)

**2023/3640/P** - Erection of part-one and part-two storey rear extension to create 2 x residential dwellings above existing hot food takeaway. **Under Assessment.**

**2022/3264/P** - Erection of part-one and part-two storey rear extension to create 2 x residential dwellings above existing hot food takeaway. **Non determination: would have refused 27 December 2023.**

**2022/3265/P** - Erection of part-one- and part-two storey rear extensions with mansard roof over to create 3 x residential units above existing hot food takeaway. **Non determination: would have refused 2 January 2024.**

**2022/0563/P** - Installation of 2x new doors and 1x new window to shopfront - **Granted 13/10/2022.**

**2022/2142/A** - Display of a mural to front elevation and 3 x sculptures at roof level. - **Granted 13/10/2022.**

**2014/6575/A** - Erection of new fascia board with down-lighting and replacement of existing fascia level projecting sign with internally illuminated projecting sign. - **Granted 03/03/2015.**

**2014/6046/P** - Change of use of first and second floor from part 4 bedroom maisonette (Use Class C3) to restaurant (Use Class A3), erection of single storey first floor rear extension, relocation of kitchen extract duct, raise rear parapet of ground floor rear extension, new shopfront and awning, installation of ground floor rear door, and new roof plant to rear extension. - **Refused 03/03/2015. Granted Under Appeal 19/08/2015.**

**9300105** - Change of use of the 1st and 2nd floors to A3 use the erection of rear extension at ground and 1st floor level for A3 use and the formation of an external staircase at rear 1st floor level. **Refused 10/12/1993. Reasons for refusal:**

- 1. It is considered that the total floorspace of the building, following the proposed extension, would be excessive in relation to the site and the character of the area generally.*
- 2. It is considered the proposed rear extension at 1st floor level would have an adverse effect on the appearance of the building and the visual amenity of the terrace of which it forms a part by reason of its size.*

Note. Drawings or reports are not available for this application and as such the size of the proposed

rear extension is not known.

**2008/4265/A** - Display of a non-illuminated projecting PVC banner sign (2.03m x 0.76m) on the front elevation at first/second floor level. **Refused 09/12/2008.**

### **237 Camden High Street (adjoining site)**

**2014/6049/P** – Conversion and change of use from ground floor part restaurant (Use Class A3) and first and second floor part 4 bedroom maisonette (Use Class C3) to self-contained restaurant (Use Class A3), erection of half storey first floor rear extension, new shopfront and awning, alterations to fenestration on rear elevation, enlarged roof light to rear extension and new roof plant to rear extension. – **Refused 02/03/2015.**

**2014/6399/A** - Erection of new fascia board with down-lighting and fascia level externally illuminated projecting sign. – **Granted 03/03/2015.**

**2003/2154/P** - Alterations to the shopfront. **Granted 17/11/2003.**

**2003/2156/A** - Display of internally illuminated fascia sign and projecting sign. **Granted 17/11/2003.**

**9201245** - Change of use from bakers shop (Class A1) to mixed use as a bakers shop with cafe on rear part of ground floor. **Granted 18/02/1993.**

**TP75373/24374** - The erection of an addition at ground floor level at the rear of No. 237, Camden High Street, St. Pancras. **Granted 19/04/1955.**

### **237 - 239 Camden High Street (part application site)**

**PEX0000072** - Change of use and works of conversion from a residential use on the first and second floors of No. 237 and storage use on the first and second floors of No. 239 to a single self-contained flat on the second floor of both units and office/staff accommodation on the first floor, the latter being ancillary to the use of the ground floor of 237 as a shop/cafe. Alterations to the existing shop front (237) to facilitate an independent access to the second floor flat. **Granted 11/04/2000.**

## **Relevant policies**

### **National Planning Policy Framework (2023)**

#### **London Plan 2021**

#### **Camden Local Plan 2017**

A1 Managing the impact of development

A2 Noise and vibration

D1 Design

E1 Economic Development

E2 Employment premises and sites

H1 Maximising Housing Supply

H4 Maximising the supply of affordable housing

H6 Housing choice and mix

H7 Large and small homes

T1 Prioritising walking, cycling and public transport

T2 Parking and car-free development

DM1 Delivery and monitoring

## **Camden Planning Guidance**

CPG Housing 2021

CPG Design 2021

CPG Amenity 2021

CPG Employment Sites & Business Premises 2021

CPG Town Centres and Retail 2021

CPG Developer Contribution 2019

CPG Transport 2021

## **London Plan Guidance**

### **Draft Camden Local Plan (2024)**

The council has published a new [Draft Camden Local Plan](#) (incorporating Site Allocations) for consultation (DCLP). The DCLP is a material consideration and can be taken into account in the determination of planning applications, but has limited weight at this stage. The weight that can be given to it will increase as it progresses towards adoption (anticipated 2026).

## **Assessment**

### **1. Detailed Description of Proposed Development**

1.1. The application for planning permission includes the following elements:

- Change of use from restaurant (formally Use Class A3 as per 2014/6046/P permission, now Use Class E) on first floor, whilst the already in use residential dwelling on the second floor will be extended as part of the development for 2 self-contained units (Use Class C3). The proposal results in a total increase in C3 floor space of 46.6sqm on the first floor, 23.2sqm on the second floor.
- Erection of a 1<sup>st</sup> and 2<sup>nd</sup> floor rear extension, occupying the complete width of the building, resulting in a full depth of 16.1m for the two floors.
- An upwards extension creating a new mansard roof to the front of the property and a flat roof to the rear. This would have a depth of 14.1m and raising the overall height of the property from 8.5m to 11.3m. This would house a third residential unit with a GIA of 47.9 sqm.
- Moving flue from rear elevation to the rear elevation of the proposed extension and increasing the height of the flue to project above the property.
- Ground floor access door to the flats facing Camden High Street and contemporary aluminium shopfront as granted under 2022/0563/P (shown on plans).

### **2. Principle of Development**

2.1. Permission is sought for the change of use of the first floor fast food restaurant to residential (Class C3), and partial change of the ground floor for additional access, whilst the second floor will be increased as part of the proposal. The use of the premises over the years has included commercial activity, however many properties nearby feature residential units on the upper floors. The mixed use nature of these properties within the terrace are well established with access from the front elevation.

2.2. As per Policy TC2 of the Camden Local Plan and the Town Centre CPG, the Council will ensure that development in its centres is appropriate to the character and role of the centre in which it is located and does not cause harm to neighbours, the local area, or other centres.

2.3. The change of use of part of the ground floor from restaurant (Use Class E) to access to residential leading to two 1 bedroom flats (Use Class C3) is considered acceptable on the basis that the front part of the retail area at ground floor would be retained with a reasonable

tradable area and therefore the unit would continue to contribute to the viability and vitality of the Camden Town Centre. The proposal would therefore satisfy the objectives of Policy TC2 and the Town Centre CPG. The basement area of shop units has no policy protection.

2.4. Given that the loss of part of the retail floor area (Class E) is considered to have been justified in policy terms, the principle of the proposed residential use is considered appropriate and consistent with the immediate area, in line with Policy H1.

### **3. Design**

#### *Rear Extension*

3.1 The proposal would create a two storey rear extension over the first and second floors, this would increase the depth on the first floor and second floor from 13.8m and 7.1m to 16.1m.

3.2 The proposed rear extension would extend significantly to the rear and produce two roof forms, a pitched roof to the front and a large flat roof to the rear. The proposed roof formation would overwhelm the original building and significantly detract from the character of the property and local area, setting it apart from the adjoining terraces. Therefore, the proposed rear extension would result in a bulky and overbearing development which upsets the proportions of the host building.

#### *Roof extension*

3.3 The proposed roof extension would introduce a mansard roof to the building and increase the overall height of the property from 8.5m to 11.3m. The proposed roof extension would result in the building significantly differing from the street scene in height, and while there are superficial creative differences in the buildings due to the nature of Camden High Street, the proposal would weaken the uniform character of this part of the street scene.

3.4 The proposed rear extension and roof raising would therefore be considered overdevelopment within this area of Camden High Street and produce unacceptable impact to bother the host dwelling and the streetscene.

### **4. Standard of Accommodation**

4.1. Policy H6 seeks to secure high quality homes to cater for a variety of household sizes and types. Policy H7 takes a flexible approach to assessing the mix of dwelling types in schemes but having regard to the different dwelling size priorities with 2 and 3 bedroom units identified as being in greater need than 1 bedroom or studio accommodation. The proposal would create three x 1 bedroom 2 person units for market residential (Class C3) accommodation at 46.6sqm at first floor level, 51sqm at second floor level and 47.9sqm at third floor.

4.2. The London Plan Housing Standards SPG sets out acceptable room sizes, based on the number of potential occupiers and bedrooms. The second story flats meets the London Plan Housing standards for a 1 bed 2 person unit which is 50sqm. The bedrooms are of a sufficient size to accommodate 1 double bed. The first floor flat would fail to meet this target at 3.4sqm below the required GIA, and the third floor flat by 2.1sqm. By providing substandard accommodation and missing the opportunity for a different mix including a decent quality 2 bedroom or 3 bedroom unit, the proposed development is considered unacceptable and contrary to the London Plan and policies H6 and H7 of the Camden Local Plan.

4.3. The proposed living room and bedrooms of both flats, while single aspect, would have two windows and receive sufficient levels of sunlight. No daylight / sunlight assessment has been submitted and no assessment into the new flat appears to have been undertaken as part of

the application. Notwithstanding officers have undertaken a desktop assessment of daylight for both the flats and it is considered the windows would receive sufficient light.

## **5. Affordable Housing**

5.1 The application form indicates that the proposal would be eligible for vacant building credits (VBC). The VBC applies to sites where a vacant building is brought back into any lawful use or is demolished or replaced by a new building ('abandoned' buildings are specifically excluded from the policy). In either case, the gross floorspace of the relevant vacant building(s) can be used as a 'credit' when the LPA calculates any affordable housing contribution. The VBC approach is to require affordable housing contributions only on any uplift in floorspace (with the floor area of the vacant building excluded from the calculation). It is noted that no further information has been provided by the agent and application to determine if the proposal would be eligible for VBC, or why the policy should apply in this instance.

5.2 The most recent 'use' application granted planning permission (2014/6046/P) under appeal on the 19<sup>th</sup> of August 2015 for the change of use of first and second floor from part 4 bedroom maisonette (Use Class C3) to restaurant (Use Class A3), erection of single storey first floor rear extension, relocation of kitchen extract duct, raise rear parapet of ground floor rear extension, new shopfront and awning, installation of ground floor rear door, and new roof plant to rear extension.

5.3 A site inspection confirmed that the ground and first floor were being used as part of the Class E operations onsite, however the second floor appeared to be used for residential purposes.

5.4 Para. 2.72 of the Mayor's Affordable Housing and Viability Supplementary Planning Guidance 2017 states the VBC operates in a way that delivers the intention of policy and does not simply reduce the affordable housing requirement of schemes that would have come forward without the VBC (and thus reduce the ability to meet objectively assessed needs). Furthermore, para 2.73 states Decision makers are encouraged to take account of: the current need for affordable housing in London (both at the local and strategic level); the rate of past delivery against local and strategic targets; the requirement of the NPPF to seek to meet objectively assessed need; the fact that brownfield sites come forward for development without such an incentive; and the requirement in the NPPF to provide competitive returns to a willing land owner and willing developer which already addresses the issue of the impact of affordable housing requirements on viability.

5.5 Given the above, para 2.74 states the Mayor's views on the matter are that in most circumstances it will not be appropriate to apply the VBC in London, unless decision makers take into account the criteria set out below:

- the building is not in use at the time the application is submitted;
- the building is not covered by an extant or recently expired permission;
- the site is not protected for alternative land use; and
- the building has not been made vacant for the sole purpose of redevelopment.

5.6 Para. 2.76 states to demonstrate that a building has not been made vacant for the sole purpose of redevelopment, an applicant will be required to demonstrate that the relevant buildings (i.e. those for which they are claiming the credit) have been vacant for a continuous period of at least five years before the application was submitted and will also be required to provide evidence that the site has been actively marketed for at least two of those five years at realistic prices.

5.7 The application was not accompanied by any such marketing evidence demonstrating the requirements set out in Para. 2.76 of the Affordable Housing and Viability Supplementary

Planning Guidance 2017 which therefore fails to satisfactorily demonstrate that the application site is currently vacant or has been vacant for a continuous period of at least five years before the application was submitted and been actively marketed for at least two of those five years at realistic prices.

5.8 Given the site is located within London and already in residential use, it is not considered that the application would meet the criteria for VBC as set out in the Affordable Housing and Viability Supplementary Planning Guidance 2017. Furthermore, VBC is a national policy and not part of the development plan. The London Plan indicates that it is not generally appropriate in London, and the Camden Local Plan already allows existing housing (whether occupied or not) to be offset against any affordable housing requirement. As such, VBC will not be applied for the purposes of the application.

5.9 Policy H4 in the Local Plan sets out the Council's aims to seek to negotiate the maximum reasonable amount of affordable housing. Policy H4 states "We will expect a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to residential floorspace of 100sqm GIA or more". Policy H4 (g) states that where developments have capacity for fewer than 10 additional dwellings, the Council will accept a payment-in-lieu of affordable housing.

5.10 The proposed scheme would create new residential floorspace that totals 145.5 sqm. This quantum of floorspace exceeds the 100sqm trigger therefore an affordable housing contribution would be required if the scheme were considered to be acceptable in all other respects. This would be calculated based on the scheme's ability to provide up to one additional home rounded to the nearest 100sqm and generates a need for 2% affordable housing (2%-maximum target of 50% based on a sliding scale) multiplied at a rate of £5,000 per sqm. Therefore, in this case the contribution would be  $2\% \times 145.5 \times £5,000 = 2.91 \times £5,000 = £14,550$ .

## 6 Amenity

6.1 Policy A1 of the Local Plan seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission to development that would not harm the amenity of neighbouring residents. This includes privacy, outlook, noise and impact on daylight and sunlight. Camden's Local Plan Document is supported by CPG6 (Amenity).

6.2 Paragraph 7.17 of the Local Plan 2017 states "*The way an area is designed and managed can have a significant impact on people's quality of life, health and wellbeing and planning has a key role in promoting good physical and mental health by creating spaces and buildings which allow and encourage healthy lifestyles*". The applicant is seeking a first and second floor rear extension where the depth of the building would increase to 16.1m from front to rear elevation on both levels.

6.3 Neither of the two neighbouring properties contain residential units at first floor or second floor level, as such there would be no loss of outlook, sense of enclosure or the like. While the proposed extensions will provide new windows to the rear elevation, this would not be directly across from any other existing residential units as well as being on the other side of an access road for deliveries. Thus, the proposal would not result in harm to neighbouring residential properties in terms of sunlight/daylight, loss of privacy, sense of enclosure or noise nuisance.

## 7 Transport

7.1 Policy T1 aims to promote sustainable transport by prioritising walking cycling and public transport. This is achieved by improving pedestrian friendly public realm, road safety and

crossings, contributing to the cycle networks and facilities and finally improving links with public transport. All these measures are in place to ensure the Council meets their zero carbon targets. The proposal would require three long stay cycle parking spaces which would need to be safe and secure, which has not been provided, nor shown on the architectural plans. Due to site constraints, providing long stay cycle parking spaces may not be possible onsite, therefore a cycle parking contribution of £3,600 would then be required, which would be secured by a S106 legal agreement. In the absence of a S106 legal agreement, this forms a reason for refusal.

7.2 Policy T2 limits the availability of parking in the borough and requires all new developments in the borough to be car free. This will be done through not issuing parking permits, resisting development of boundary treatments and using legal agreements to secure these actions. The new 3 units would be car-free to limit the availability of both off-street and on-street parking. This would be secured by a S106 legal agreement if planning permission is granted and would prevent future occupiers from obtaining on-street parking permits. In the absence of a S106 legal agreement, this forms a reason for refusal.

7.3 The Council's requirements for Construction Management Plans (CMP) includes specific guidance and requirements for development within the Central London Area, in order to mitigate the harmful impacts of the interaction of high levels of construction and construction traffic with established business/residential travel patterns. The Council would expect construction vehicle movements to and from the site to be scheduled to avoid peak periods to minimise the impacts of construction on the transport network and due to the location of cycle and pedestrian routes adjacent to the site. A CMP would therefore be required as part of any planning permission. The Council's CMP pro-forma, which is required to be used as the template for CMPs, also includes measures to ensure that nuisance from dust, noise and other activities are minimised.

7.4 In the event that the development was acceptable, the CMP would be secured by a head of term to the s106 legal agreement. The CMP would need to take account of the potential cumulative impacts on the local highway network arising from other developments which are ongoing or planned in the locality. Once a contractor is retained engagement would be required on the draft CMP with residents/businesses, Members and officers.

7.5 A CMP Implementation Support Contribution will be required in order to fund the specific technical inputs and sign off that are required to ensure that the obligation is complied with, and the planning objectives achieved. The support contribution is therefore £4,194 and would be secured by s106 legal agreement.

7.6 Construction activity can cause disruption to daily activities, however a well-run site that responds to the concerns of residents can greatly improve the situation. While most sites deal quickly and robustly with complaints from residents and reinforce the requirements of the CMP with site operatives, there can be situations where this does not occur and officers in the Council are required to take action. Due to the scale of the development, duration of works and sensitive location of the site, a bond of £8,000, in accordance with the Council's published note on Construction Impact Bonds, would be secured as a head of term in a s106 legal agreement. The bond would be fully refundable on completion of works, with a charge only being taken where contractors fail to take reasonable actions to remediate issues upon notice by the Council.

7.7 There is no requirement to secure a highways re-instatement contribution for this development, as any damage that occurs to the surrounding footway due to the placing of scaffolding will be covered by the bond that is secured as part of the scaffolding licence process.



## **8 Planning Obligations**

8.1 If the proposal was otherwise considered to be acceptable it would be the subject of a Section 106 legal agreement to ensure adequate mitigation.

8.2 Many of the obligations required have been discussed above and are included as reason for refusal. Below is a summary of the heads of terms that would be sought for a successful scheme:

- Affordable Housing Contribution of £14,550
- Car-free development
- Cycle parking contribution of £3,600
- Construction Management Plan (CMP)
- CMP Implementation Support Contribution of £4,194 and the Impact Bond of £8,000

8.3 The proposal would be liable for the Mayor of London's Community Infrastructure Levy (CIL) and the Camden CIL as it involves the creation of new residential floorspace.

## **9 Recommendation**

9.1 Refuse Planning Permission for the following reasons:

1. The proposed development would result in an unduly large and out of character development within Camden High Street that would overwhelm the host property and be visually detrimental to the street scene. The proposal is therefore contrary to policies A1 (Managing the impact of development) and D1 (Design) of the London Borough of Camden Local Plan 2017.
2. The proposed flats at first and third floor, by virtue of failing the minimum gross internal area for the corresponding units would fail to provide an acceptable level of residential amenity to any future occupants. The proposal is therefore contrary to policy D6 of the London Plan 2021, and policies H6 (Housing choice and mix) and H7 (Large and small homes) of the London Borough of Camden Local Plan 2017.
3. The proposed development, in the absence of a legal agreement securing an affordable housing contribution, would fail to maximise the supply of affordable housing to meet the needs of households unable to access market housing, contrary to policy H4 (Maximising the supply of affordable housing) of the Camden Local Plan 2017.
4. The proposed development, in the absence of a legal agreement securing car-free housing, would contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to policies T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of the Camden Local Plan 2017.
5. The proposed development, in the absence of a legal agreement securing a cycle parking contribution of £3,600 would contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to policies T1 (Prioritising walking, cycling and public transport) and DM1 (Delivery and monitoring) of the Camden Local Plan 2017.
6. The proposed development, in the absence of a legal agreement securing a CMP, CMP Implementation Support Contribution of £4,194 and the Impact Bond of £8,000, would contribute unacceptably to the harm of the local amenity and the safe movement of pedestrians, cyclists and other road users, which would likely to be detrimental to the amenities of the area generally, contrary to policies G1 (Delivery and location of growth), A1 (Managing the impact of development), T3 (Transport Infrastructure), T4 (Sustainable movement of goods and materials), DM1 (Delivery and monitoring), A4 (Noise and Vibration) and CC4 (Air quality) of the Camden Local Plan 2017.

