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## Appeal Decision

Site visit made on 5 December 2023 by Tom Bennett BA(Hons) MSc MRTPI

### **Decision by Martin Seaton BSc (Hons) DipTP MRTPI**

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

**Decision date: 18 April 2024**

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### **Appeal Ref: APP/X5210/W/23/3325616**

#### **13 Princess Road, London, NW1 8JR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by H Stein against the Council of the London Borough of Camden.
  - The application Ref: 2023/0113/P, is dated 9 January 2023.
  - The development proposed is described as the change of use of ground floor and basement commercial space to form residential flat with replacing existing shopfront with new fenestration.
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### **Decision**

1. The appeal is dismissed, and planning permission for the change of use of ground floor and basement commercial space to form residential flat with replacing existing shopfront with new fenestration is refused.

### **Appeal Procedure**

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### **Preliminary Matters**

3. The appeal was made against a failure to give notice of a decision on the planning application within the prescribed period. However, the Council have detailed their concerns within their appeal submissions, and advised that had they been in a position to determine the application, it would have been refused.
4. This type of change of use is normally permitted under the Town and Country Planning (General Permitted Development) (England) Order 2015 without the need for planning permission. However, the Council recognises that commercial premises, particularly within neighbourhood centres are vulnerable to conversion to dwellings. It has therefore introduced an Article 4 Direction to remove this permitted development right to maintain variety within centres and prevent the loss of local facilities. The Direction covers the area where the appeal site is located.
5. The Government has published a revised National Planning Policy Framework (December 2023) (the Framework). I have had regard to this document in reaching my conclusions.

## **Main Issues**

6. Having had regard to the Council's submissions, the main issues are:
- the effect of the proposed development on the retail function of the area;
  - the effect of the proposed development upon the character and appearance of the Primrose Hill Conservation Area (CA);
  - whether the proposal would secure a car-free housing scheme
  - whether the proposal would secure adequate cycle parking spaces

## **Reasons for the Recommendation**

### *Retail*

7. The appeal property is a Victorian mid-terraced property with a shopfront at ground floor level currently in retail use. With the exception of the neighbouring property, the remainder of the terrace has ground floor shop frontages, forming the Princess Road neighbourhood shopping centre (NSC).
8. The appeal property, currently trading as a florist, forms part of a varied mix of retail and service units within the parade of shops which adds to the vitality of the neighbourhood. It is not designated as a primary or secondary frontage as defined within the Town Centres and Retail Guidance (2021). However, as the parade is designated as a NSC, the Camden Local Plan 2017 (LP) recognises that these centres provide a valuable service to the local community in which they serve.
9. Policy TC2 seeks to support and protect the function, character, and success of each of Camden's neighbourhood centres, providing and maintaining a range of shops. The supporting text within this policy goes on to state that housing will be supported below shops where it does not cause harm to the vitality and viability of centres, but will be resisted where it results in 3 or more consecutive premises being in non-retail use, although the vacancy history of the shop unit will be considered.
10. The proposal would result in the loss of an active retail unit, which from the evidence before me, has been trading for over 20 years. The lack of vacant units in the parade suggests that this is not a neighbourhood centre in decline and I have not been presented with any substantive evidence to suggest otherwise. The proposed loss of the retail unit would lessen the reason and desire for people to visit this neighbourhood centre and would weaken its retail function. A reduced footfall would have an adverse impact on the vitality and viability of this neighbourhood centre and would not enhance the role that this frontage currently provides.
11. For the reasons outlined above, the proposal would fail to protect the retail function of this neighbourhood centre. It would therefore conflict with Policy TC2 of the LP.

### *Character and appearance*

12. The appeal site lies within the Primrose Hill Conservation Area (CA). Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires

that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The Framework further advises 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. In considering the significance of the CA I have had regard to the Primrose Hill Conservation Area Statement (PHCAS) (2000) and observations during my site visit.

13. The PHCAS states that a number of terraces, including the Princess Road NSC, were originally designed to accommodate retail uses, small businesses and public houses on the lower floors, with residential flats above. The terrace therefore forms an important part of the CA, with its significance in part derived from the age, materials and appearance as an early Victorian terrace with ground floor shops.
14. Whilst the shopfront itself is not of merit, the proposed replacement with a window would detrimentally alter the appearance of the appeal property, appearing at odds with the prevailing character of the terrace as a parade of shops. The presence of a shop front makes a positive contribution to the character and appearance of the CA and wider terrace and its loss would have an adverse impact. In this regard, the proposal would therefore neither preserve nor enhance the character and appearance of the CA, and would result in less than substantial harm to the significance of the CA.
15. The Framework makes it clear that the harm should be weighed against the public benefits of the proposal. In this case, there would be a limited benefit from the contribution of a single dwelling to the available housing stock. However, the very modest effect of such a public benefit would be insufficient to outweigh the great weight given to the harmful effect the proposal would have on the character and appearance of the CA.
16. For the above reasons, the proposal would fail to preserve or enhance the character and appearance of the CA, conflicting with Policy D1 and D2 of the LP. These amongst other matters, seek development which respects the local context and character and preserves and enhances the character and appearance of the conservation area.

#### *Car-free housing*

17. Policy T2 of the LP requires all new developments to be car-free and that, as a part of this, no new on-street or on-site parking permits, as a result of new development, will be issued.
18. To deliver a car-free development the Council suggest that the appropriate mechanism is a legal agreement to ensure that occupiers of the proposed development would not be eligible to apply for a parking permit. I acknowledge that the proposal would be likely to result in less congestion and less demand for on street parking spaces than the existing use. However, without ensuring the parking permit ineligibility, the development would fail to constitute a car-free development and would not be limiting the opportunities for parking.
19. The planning obligation would be necessary to make the development acceptable in planning terms, so that it would comply with Policy T2 of the LP. However, as I do not have an agreement before me, there is no mechanism to

secure that the development would be car free. Therefore, there would be conflict with Policy T2 of the LP.

#### *Cycle parking*

20. In order to promote cycling and more sustainable modes of transport in the borough, Policy T1 of the LP requires accessible, secure cycle parking to be provided.
21. The submitted plans do not detail any information on cycle parking provision, nor does there appear to be any potential locations within the site boundary that could accommodate such provision. The Council has suggested that this is a matter which could be secured via a section 106 legal agreement to secure funding towards a cycle hangar in the vicinity. However, I do not have an agreement before me and therefore there is no mechanism to secure that the development provides funding for cycling storage provision. The proposal therefore fails to promote more sustainable forms of transportation contrary to Policy T1 of the LP.

#### **Other Matters**

22. I have noted that the proposed conversion of the existing basement vaults to a study has raised some concern over the maintenance of the structural integrity of the highway. The Council advises that any 'Approval in Principle' required would need to be secured under Highways legislation, and I am satisfied that this would be a matter which would need to be suitably secured and addressed prior to any development taking place. However, whilst no detailed submissions or undertakings have been made by the appellant in this regard, in light of the conclusions on the main issues, this is not a matter which has been central to the determination of this appeal.
23. The appellant has drawn my attention to the neighbouring property which has been converted from retail to residential at ground floor level. However, I do not know the precise planning circumstances surrounding this and from the information before me it appears that this work pre-dates the Framework and local plan. It therefore does not justify the appeal proposal, and only serves to demonstrate the impact of the loss of a retail frontage within the parade on the character and appearance of the CA.

#### **Conclusion and Recommendation**

24. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed and planning permission refused.

*Tom Bennett*

APPEAL PLANNING OFFICER

#### **Inspector's Decision**

25. I have considered all the submitted evidence, and my representative's recommendation, and on that basis the appeal is dismissed.

*Martin Seaton*

INSPECTOR