

1 INTRODUCTION

- 1.1 This appeal follows the refusal of the London Borough of Camden for my Client's scheme to develop at the appeal site:

Erection of one additional storey to provide 2 additional flats (C3)

- 1.2 The Appeal scheme comprises the following documents:

- *The scheme drawings, prepared by Genesis Architects.*
- *Planning Statement, prepared by Genesis Architects*
- *Daylight and Sunlight Impact Assessment by Waldrams*
- *Noise note, prepared by 24 Acoustic*

- 1.3 This application was refused under delegated powers on four(4) grounds which for simplicity, can be summarised as follows;

- Overlooking to 5-7 Brecon Mews
- Impact on the host building & the character and appearance of the area
- No S106 for affordable housing
- No S106 for parking permits

- 1.4 The last two matters listed will be resolved by way of S106, where the quantum of affordable is agreed.

- 1.5 This Appeal Statement explains why there is no substance in the two remaining points raised in the reasons for refusal which would preclude the beneficial grant of planning permission and also highlights the merits of the proposals. Given the nature and scale of the proposal, we consider written representations to be an appropriate means of determining the appeal.

2 SITE AND SURROUNDS

- 2.1 The site is located on a short cul-de-sac off Brecknock Road (A5200) in west Kentish Town. It is approximately 0.03ha in area and contains a mixed use 4 storey residential block with B1 use at the ground floor. The building is not listed nor within the setting of a Listed Building, nor is it located within a Conservation Area.

- 2.2 The site is located in a predominately residential area, to the rear of the shopping parade fronting Brecknock Road, which is identified as a Local Centre in the LB Camden Core Strategy and characterised by commercial, food and drink, entertainment and residential uses. Buildings in the immediate vicinity of the site vary in age, form, height and architectural style. It is not located within a defined Employment Area.
- 2.3 The buildings on Brecknock Road are four storeys with mansard roofs and approximately 2m higher than the host building. To the north is 2/2a Hargrave Place which is four storeys in height, and slightly taller than the appeal building. At the rear is Brecon Mews which is a three storey residential development and would be approximately 750mm lower than the proposal. Adjacent to the site is the three storey Admiral Mann public house which would be 1.85m lower than the proposed building, but which has planning permission to extend upwards by a floor. Further west is Landleys Field, a four storey residential block which forms part of a larger housing estate.

3 LEGISLATION AND POLICY

- 3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The Camden Local Plan 2017, Kentish Town Neighbourhood Plan together with the Mayor's London Plan, form the statutory development plan for the Borough. The NPPF is a relevant and material consideration, as is the Camden's Supplementary Planning Documents.
- 3.2 The National Planning Policy Framework (NPPF) was last updated in December 2023 and promotes the delivery of sustainable development that meets the needs of the community. Paragraph 8 sets out that there are three overarching objectives to sustainable development which are; an economic objective, a social objective and an environmental objective.

- 3.3 The theme of sustainable development is consistent throughout the NPPF. Paragraph 11 highlights that plans and decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay.
- 3.4 Section 5 of the NPPF refers to the delivery of a sufficient supply of homes. Paragraph 60 states as follows:
“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.”
- 3.5 Paragraph 70 refers to small and medium sites for new housing and states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area.
- 3.6 Section 11 refers to the effective use of land with Paragraph 124e stating that decision makers should support the use of air space for additional homes, yet this material consideration is not mentioned by Officers in refusing the application despite is being directly relevant to the issues at hand!

London Plan 2021

- 3.7 **Policy GG2 ‘Making the best use of land’** – to enable the development of brownfield land, prioritise sites which are well connected by existing or planned public transport and proactively explore the potential to intensify the use of land to support additional homes and workspaces, promoting higher density development in locations that are well-connected.
- 3.8 **Policy GG4 ‘Delivering the homes Londoners need’** – to create a housing market that works better for all Londoners, planning and development must ensure that more homes are delivered, support the delivery of the strategic target of 50% of all new homes being genuinely affordable, create mixed and inclusive communities, with good quality homes that meet high standards of design.

- 3.9 **Policy D3 ‘Optimising site capacity through the design-led approach’** – seeks to make the best use of land by following a design-led approach that optimises the capacity of sites. Development proposals should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions. They should also respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards local character.
- 3.10 **Policy D6 ‘Housing quality and standards’** – sets out standards for the design of buildings, including private internal and outside space. It identifies that developments should maximise the provision of dual aspect dwellings and normally avoid the provision of single aspect dwellings. A single aspect dwelling should only be provided where it is considered a more appropriate design solution to meet the requirements in optimising site capacity. The design of development should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context, whilst avoiding overheating, minimising overshadowing and maximising the usability of outside amenity space.
- 3.11 **Policy D7 ‘Accessible housing’** – to provide suitable housing and genuine choice for London’s diverse population, including disabled people, older people and families with young children, residential development must ensure that at least 10 per cent of dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(3) ‘wheelchair user dwellings’ and all other dwellings meet Building Regulation requirement M4(2) ‘accessible and adaptable dwellings’.

- 3.12 **Policy H1 'Increasing housing supply'** – sets out that borough councils should optimise the potential for housing delivery on all suitable and available brownfield sites through Development Plans and planning decisions especially sites within PTAL levels 3-6 and housing intensification on low density sites in commercial, leisure and infrastructure uses.
- 3.13 **Policy H2 'Small sites'** – Boroughs should pro-actively support well- designed new homes on small sites (below 0.25 hectares in size) through both planning decisions and plan-making in order to significantly increase the contribution of small sites to meeting London's housing needs, diversify the sources, locations, type and mix of housing supply and support small and medium-sized housebuilders. Boroughs should recognise in their Development Plan that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites.
- 3.14 **Policy H4 'Affordable housing'** – the strategic target is for 50% of all new homes delivered across London to be genuinely affordable, as such major development which trigger affordable housing requirements are to provide affordable housing through the threshold approach.
- 3.15 **Policy H5 'Threshold approach to applications'** – the threshold level of affordable housing on gross residential development is initially set at a minimum of 35%. To follow the fast track route the application must meet certain criteria, if those are not met then the application must follow the Viability Tested Route.
- 3.16 **Policy H10 'Housing size mix'** – schemes should generally consist of a range of units size, having regard to robust local evidence of need.

- 3.17 **Policy HC1 ‘Heritage conservation and growth’** – 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. Development proposals should avoid harm and identify enhancement opportunities by integrating heritage considerations early on in the design process
- 3.18 **Policy T5 ‘Cycle parking’** – developments should provide cycle parking at least in accordance with the minimum standards set out in the London Plan.
- 3.19 **Policy T6 ‘Car parking’** – car-free development should be the starting point for all development proposals in places that are (or are planned to be) well-connected by public transport, with developments elsewhere designed to provide the minimum necessary parking (‘car-lite’). Car-free development has no general parking but should still provide disabled persons parking. All residential car parking spaces must provide infrastructure for electric or Ultra-Low Emission vehicles. At least 20 per cent of spaces should have active charging facilities, with passive provision for all remaining spaces.
- 3.20 Camden Local Plan 2017
- 3.21 **G1 ‘Delivery and location of growth’** – the council will create the conditions for growth to deliver the homes, jobs, infrastructure and facilities to meet Camden’s identified needs. To do this the Council will deliver growth by securing high quality development and promoting the most efficient use of land and buildings in Camden by supporting development that makes best use of its site, taking into account quality of design, its surroundings, sustainability, amenity, heritage, transport accessibility and any other considerations relevant to the site.

- 3.22 **H1 'Maximising housing supply'** – the Council will aim to secure a sufficient supply of homes to meet the needs of existing and future households by maximising the supply of housing and exceeding a target of 16,800 additional homes from 2016/17 – 2030/31. They will seek to exceed the target for additional homes, particularly self-contained homes by regarding self-contained housing as the priority land-use of the Local Plan.
- 3.23 **H4 'Maximising the supply of affordable housing'** – aims to maximise the supply of affordable housing and exceed a borough wide strategic target of 5,300 additional homes from 2016/17 – 2030/31. As such a contribution is required from all development that provide one or more additional homes and involve a total addition to residential floorspace of 100sqm GIA or more.
- 3.24 **H6 'Housing choice and mix'** – seeks to secure high quality accessible homes in all developments that include housing and expects all self-contained homes to meet the nationally described space standards, requires 90% of new build self-contained homes to be accessible and adaptable in accordance with Building Regulation M4(2) and 10% of to be suitable for occupation by a wheelchair user in accordance with Building Regulation M4(3). The policy also seeks to secure a variety of housing suitable for existing and future households.
- 3.25 **H7 'Large and small homes'** – identifies that the Council will seek to ensure that housing development contributes to meeting the priorities set out in the Dwelling Size Priorities Table and includes a mix of large and small homes. The policy allows for a flexible approach in each development having regard to a number of factors set out in the policy. The dwelling size priority table (table 1 in the Local Plan) identifies a high need for 2 and 3 bedroom market dwellings and social-affordable rented.

- 3.26 **A1 'Managing the impact of development'** – identifies that the Council will seek to protect the quality of life of occupiers and neighbours. They will grant permission for development unless this causes unacceptable harm to amenity. The factors which will be considered include visual privacy and outlook, sunlight, daylight and overshadowing, transport impacts, impacts of the construction phase, noise and vibration levels and odour, fumes and dust.
- 3.27 **A4 'Noise and Vibration'** – identifies that the Council will seek to minimise the impact on local amenity from the demolition and construction phases of development.

3.28 **D1 'Design'** – seeks to secure high quality design in development. The Council will require development that:

- a) *respects local context and character;*
- b) *preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;*
- c) *is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;*
- d) *is of sustainable and durable construction and adaptable to different activities and land uses;*
- e) *comprises details and materials that are of high quality and complement the local character;*
- f) *integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;*
- g) *is inclusive and accessible for all;*
- h) *promotes health;*
- i) *is secure and designed to minimise crime and antisocial behaviour;*
- j) *responds to natural features and preserves gardens and other open space;*
- k) *incorporates high quality landscape design (including public art, where appropriate) and maximises opportunities for greening for example through planting of trees and other soft landscaping,*
- l) *incorporates outdoor amenity space;*
- m) *preserves strategic and local views;*
- n) *for housing, provides a high standard of accommodation; and*
- o) *carefully integrates building services equipment.*
- p) *The Council will resist development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.*

3.29 **CC1 'Climate change mitigation'** – requires all development to minimise the effects of climate change and encourage all developments to meet the highest feasible environmental standards that are financially viable during construction and occupation..

- 3.30 **T2 'Parking and car-free development'** – identifies that the Council will limit the availability of parking and require all new developments in the borough to be car-free. The Council will not issue on-street or on-site parking permits in connection with new developments and will use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits.

Camden Supplementary Planning Guidance

- 3.31 This document has various generic policies regarding new development within the Borough. Of particular relevance here is the Camden DesignCPG (2021). Relevant advice includes, Paragraph 2.9

In order to achieve high quality design in the borough we require applicants to consider buildings in terms of:

- a) context*
- b) height*
- c) accessibility*
- d) orientation*
- e) scale and massing*
- f) siting*
- g) functionality and layout*
- h) detailing*
- i) materials*

- 3.32 Paragraph 2.10

Development should respond positively and sensitively to the existing context

- *Development should integrate well with the existing character of a place, building and its surroundings*

3.33 Paragraph 2.11

Good design should respond appropriately to the existing context by:

- *ensuring the scale of the proposal overall integrates well with the surrounding area*
- *carefully responding to the scale, massing and height of adjoining buildings, the general pattern of heights in the surrounding area*
- *positively integrating with and enhancing the character, history, archaeology and nature of existing buildings on the site and other buildings immediately adjacent and in the surrounding area, and any strategic or local views, vistas and landmarks. This is particularly important in conservation areas.*

3.34 Paragraph 2.14

Materials should form an integral part of the design process and should:

- *Be contextual - the texture, colour, pattern and patina of materials can influence the impact and experience of buildings for users and the wider townscape. The quality of a well-designed building can easily be reduced by the use of poor quality or an unsympathetic palette of materials. Decisions on the materials used in a development scheme should be informed by those used in the local area.*
- *Respond to existing heritage assets and features by relating to the character and appearance of the area, particularly in conservation areas or within the setting of listed buildings.*

Camden Planning Guidance- Home Improvements (January 2021)

- 3.35 The Home Improvements CGP 2021 contains a range of guidance with regard to roof extensions.

4 RESPONSE TO REASONS FOR REFUSAL

- 4.1 The host building is predominantly four storeys, with a two storey section to one side housing one flat above a covered service yard. The building sits between a predominantly Victorian townscape and a 1930s housing estate. As constructed the host building displays a contemporary response and has punched, vertically proportioned openings, is constructed in brick with a rendered ground floor elevation. Its windows are full height with centrally located balconies to the front. The appeal site lies within an area where there is no singular prevailing height datum, nor any consistent roof line or profile to the north, south or west
- 4.2 The Appeal host building falls into the category of “short” by general scale of London mansion blocks, and the extra floor with matching brick and a top floor which the roof form is entirely within character both of this host building, and most London mansion blocks. Buildings within the immediate context have been topped out with a mansard so as to provide fifth floor accommodation within a recessive feature.
- 4.3 The building as consented and as proposed will have a stepped form, meaning there will be no significant change to the overall perception of the form of the building if the appeal was allowed. The extension will not be ‘poorly proportioned’, because it follows the existing floor plate which already has a smaller top floor.

- 4.4 Whilst escaping the attention of Officers, Paragraph 124 (e) of the NPPF is abundantly clear that decisions should *support opportunities to use the airspace above existing residential and commercial premises for new homes*. Upwards extensions should be allowed where they are well-designed and harmonise with the original building, as well as consistent with the prevailing height and form of neighbouring properties and the overall street scene. The proposals are consistent with this policy advice, and Officers may have arrived at different conclusions if they had considered it.
- 4.5 The appellant considers that the proposed extension is contextual and sensitive to prevailing architectural language of the host building as an upward extension of the building itself need not unbalance the architecture of the building or that of the wider surroundings. The building has a strong enough horizontal composition, to withstand a neatly designed upward extension to accommodate additional living space.
- 4.6 The proposed extension would extend upwards, flush with the existing recessed upper floor elevation of the building. That recess, in conjunction with the existing horizontal proportion of the building, ensures the extended building would proportionately relate to the host building with a clear hierarchy of built form from lower to upper floors. That hierarchy is further enhanced by the proposed materiality as the appeal proposal would replicate that materiality and would recreate the originally intended, and approved, composition of the building.
- 4.7 Overall, the proposed works are considered to be modest and sympathetically maintain the existing architectural composition of the appeal building by virtue of their simple proportions that complement the detail of the existing building. By virtue of this arrangement, and the established variety and scale of roofscapes in the surroundings, the height, mass and scale of the extension is not considered to have a harmful impact on the host property or the streetscene, rather it is considered it will preserve the character of the area.

RfR 2 – Overlooking

- 4.8 The appeal scheme seeks 2 x 1 bed 1 person dwellings, where the living accommodation faces out over Hargrave Place. To the rear, there are two bedroom and two bathroom windows.
- 4.9 In determining to refuse the application, Officers rely upon the CPG Amenity, and the comment as follows at para 1.7.3 of the Officer report:

CPG Amenity guides that interior and exterior spaces which lack privacy can affect the quality of life of occupants; new development should be designed to avoid overlooking; gardens and habitable rooms such as residential living rooms, bedrooms and kitchens are considered the most sensitive. In terms of overlooking, the benchmark distance outlined by the council's CPG Amenity guidance as good practice between habitable rooms (either nonresidential or residential and assuming a level topography) is 18m.

- 4.10 However, they've not actually followed the text of the advice, but rather have adopted an interpretation to support their conclusions, but this is contrary to what it says. Para 2.4 of the CPG states:

To ensure privacy, it is good practice to provide a minimum distance of 18m between the windows of habitable rooms in existing properties directly facing the proposed (either residential or non-residential) development, assuming a level topography. (our emphasis)

- 4.11 Here is the wall which faces onto the appeal site:



4.12 As is clearly shown in this streetview image, taken in July 2011 there are no windows which directly face the appeal site at any level. Therefore, Officers have misapplied a separation distance which isn't relevant in the circumstance as there are no directly facing windows. To underline the Appellant's reading of the policy guidance and as a statement of fact, the word rooflight nor dormer nor velux does not appear in the CPG so it is unclear what guidance Officers are relying upon to sustain their criticism? If it is the text of the CPG quoted above, then no issues arise.

4.13 As to the potential for overlooking into the rooflights, given the narrow angles between the proposed windows and the existence of solar glare, it is considered highly unlikely that invasive views into this space would be possible. The lack of guidance relating to rooflights underpins this analysis. In any instance, the same CPG states in the following paragraph:

In instances where mitigation is considered necessary to ensure privacy, but has not been provided adequately within development proposals, the Council will consider the use of planning conditions to secure mitigation measures. This could include conditions requiring:

- *the installation of obscure glazing;*
- *restrictions on openable windows; and*
- *restrictions on inserting new windows into blank walls.*

4.14 The Appellant would be willing to accept a condition in accordance with the CPG guidance.
RFR 3 & 4 – Affordable and parking permits

4.15 As noted within the Officer report

In this case, the proposal provides 2 additional homes and 102sqm additional floorspace and therefore, if granted, a legal agreement would secure a payment-in-lieu towards affordable housing in the borough. A target of 2% applies, which would equate to a financial contribution of £10,200. This payment would be secured through a section106 legal agreement if the proposals were considered acceptable in all other regards.

4.16 As noted above, the Appellant will complete a S106 to:

- Deliver the agreed contribution towards affordable housing
- Restrict the ability of residents to access parking permits

5 PLANNING BENEFITS

5.1 The proposed development comprises 2 additional units to be provided on previously developed land by way of an upwards extension. Government policy in general and the Framework in particular are clear that the supply of land for new housing is a key planning priority and should be considered favourable, and particularly via this methodology. Policy GG2 of the London Plan outlines to create successful sustainable mixed-use places,

5.2 The delivery of additional residential units has acknowledged benefits and to emphasise just three of these public benefits. Plainly it is a benefit, a good thing, to make efficient use of a highly accessible site such as this, the NPPF [118] provides in terms that the re-use of this brownfield site is a matter to which substantial weight should be given.

5.3 Substantial weight should also be given to the provision of permanent housing. The importance of small sites to Camden's housing land supply, and the policy support in the London Plan which will seek to apply a presumption in favour of developing small sites. It is important to understand that the London Plan housing targets are minima set below the lowest identified level of the acute need for housing because of a lack of capacity – i.e. sufficient known sites or opportunities – to meet even the lowest identified level of need; accordingly, the London Plan urges authorities – even LBTH which has significant delivery requirements – to do better than the minimum targets and to supplement, to add to, housing land supply capacity.

5.4 Significant weight should be given to the affordable housing contribution and the economic benefit derived from the construction phase of the development, both through employment but also spend in the wider economy once the units are occupied.

6 CONCLUSION

- 6.1 The proposal will create 2 residential units that will contribute to the housing need in the borough, where housing delivery is expected to underpin substantial delivery of London's overall need
- 6.2 The proposed extension has been designed to match the external appearance of the existing building in terms of the materials to be used and the pattern of the fenestration, The materials and fenestration details of the existing building are simple and unobtrusive, and these features are continued and matched in the proposed design. This results in the overall impression of the external appearance of the building being maintained, meaning there would be no impact on how the appearance of the building is perceived by observers in terms of the materials, and no detrimental impact on the surrounding buildings .
- 6.3 Each residential unit will benefit from meeting the internal space standards as prescribed in London Plan and the Nationally Described Space Standards, and the provision of external space in excess of these requirements.
- 6.4 Officers have misapplied policy that was irrelevant to the application at hand, and have otherwise ignored known material considerations such as their powers pursuant to S72 of the TCPA 1990. These matters have however been given full, careful and considered attention.
- 6.5 Overall the proposed development will provide a high quality development at this site whilst safeguarding neighbouring amenity and retaining the character of the area.