



## Appeal Decisions

Site visit made on 26 March 2024

by **E Catchside BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 May 2024

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### Appeal A Ref: **APP/X5210/W/23/3327715**

#### **239 Camden High Street, Camden, London NW1 7BU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Capital QSR Limited against the Council of the London Borough of Camden.
  - The application Ref is 2022/3264/P.
  - The development proposed is one- and two-storey rear extensions to form two apartments above existing hot food takeaway.
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### Appeal B Ref: **APP/X5210/W/23/3327716**

#### **239 Camden High Street, Camden, London NW1 7BU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Capital QSR Limited against the Council of the London Borough of Camden.
  - The application Ref is 2022/3265/P.
  - The development proposed is one- and two-storey rear extensions with mansard roof over to form three apartments above existing hot food takeaway.
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### Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

### Applications for costs

3. Applications for costs were made by Capital QSR Limited against the Council of the London Borough of Camden in the appellant's statement. The applications for costs are the subject of a separate decision.

### Preliminary Matters

4. As set out above there are two appeals on this site. The development proposed under Appeal A includes single and two storey rear extensions to provide two apartments and the erection of a duo-pitched roof behind the existing parapet. The Appeal B scheme is similar to the Appeal A scheme but also includes a mansard roof extension to provide a third apartment. I have considered each proposal on its own merits. However, to avoid duplication I have dealt with the two schemes together where appropriate and unless indicated otherwise.

5. The appeals were both submitted on the basis of the failure of the Council to determine the planning applications within the prescribed period. In its evidence the Council has indicated that, had it determined the applications, it would have refused planning permission for both appeal schemes due to its impact on the host property and local character, the standard of the proposed accommodation, and the absence of a legal agreement to secure car-free housing. The Council would also have refused permission for the Appeal B scheme due to the absence of an affordable housing contribution.
6. The appeal site lies within the setting of the Grade II listed Arlington House, the Camden Town Conservation Area (CTCA) and the Regent's Canal Conservation Area (RCCA). The parties have been invited to make comments with regard to the effect of the proposal on the significance of these heritage assets. I have taken the comments received into account in my decision.
7. The main issues I have identified are based on the evidence before me and my own observations of the site and surroundings.
8. There is an error on the submitted plans, in that the existing duo-pitched roof on the neighbouring property at 241 Camden High Street is not consistently shown to be present on the front elevation. However, I observed the neighbouring roof on my site visit and have taken account of its existence in my consideration of the appeal. In the absence of any evidence to the contrary, I am satisfied that the plans of the proposed development are accurate and have proceeded to determine the appeal on this basis.
9. On my site visit, I observed that the use and layout of the appeal building does not correspond with the existing plans provided. The appellant has stated that the property has been altered through the implementation of existing planning permissions. The site has a complex planning history, and it is not for me as part of these Section 78 appeals to establish the lawfulness of the existing use and layout of the appeal property. I have determined the appeals based on the proposed plans and evidence, and my observations of the site and area.
10. I acknowledge the Council's concerns raised in its' evidence about the effect of an increase in the height of the existing parapet. However, I am satisfied from the submitted plans and evidence that no changes to the parapet height are proposed. I have determined the appeal on this basis.
11. The National Planning Policy Framework (the Framework) was revised in December 2023. The parties have been invited to comment on the revised Framework insofar as it is relevant to the appeals. I have had regard to the comments received in my consideration of the appeals.

### **Main Issues**

12. The main issues are:

- the effect of the developments on the character and appearance of the host property and local area, with particular regard to the significance of the CTCA and the RCCA, through development within their settings;
- whether the proposed developments would provide an adequate standard of accommodation for future occupiers, with particular regard to the internal floor area within the proposed first-floor apartment and, for Appeal B only, also within the proposed third-floor apartment;

- whether the setting of the adjacent Grade II listed Arlington House would be preserved;
- whether the proposals would comply with development plan policies in respect of parking and car-free development; and,
- for Appeal B only, whether the development would provide adequate provision for affordable housing.

## **Reasons**

### *Character and appearance*

13. The appeal site forms part of a distinctive terrace of artistically decorated properties on Camden High Street. Most of the buildings in the terrace are similar in terms of their width and three-storey height, as well as their architectural features which include duo-pitched roofs behind parapets. This creates a sense of rhythm and uniformity along the street. The appeal property shares many of these characteristics but, unlike most neighbouring buildings, it does not have a duo-pitched roof.
14. The rear of the appeal building backs onto the Grade II listed Arlington House, which is several storeys tall and in residential use. Access to the rear of the appeal site is via a gated entrance to Early Mews, which also provides access to Arlington House. The rear elevation of most buildings along the terrace, including the appeal building, step down in height from the front elevation towards Arlington House to the rear. This creates a sense of space between the buildings that helps to demarcate Arlington House as a separate entity from the properties fronting Camden High Street. I will consider the impact of the appeal schemes on the setting of the listed building later in this decision.
15. The site lies outside of but within the setting of the CTCA, which includes part of Camden High Street between Mornington Crescent and Camden town centre. The significance of the CTCA is derived, in part, from the eclectic and lively commercial character of Camden Town and its buildings which reflect the diverse and changing architectural styles over time. Although the appeal site lies outside of the CTCA, it makes a positive contribution to its significance due to its position within a row of decorated buildings on a key commercial frontage leading to the heart of the CTCA.
16. The RCCA comprises part of the Regent's Canal, which winds through this part of Camden. The significance of the RCCA lies, partly, from the historic link between the canal and former industrial land uses as well as its evolution as a recreational, transport and ecological resource. The appeal building forms part of the urban hinterland around the canal. However, it is separated from it by intervening buildings. Therefore, the appeal property is of neutral value to the significance of the RCCA.

### Appeal A

17. Many of the proposed changes on the street-facing elevation are modest in scale, comprising alterations to the access arrangements and decorative changes. Given the existing variety in the appearance of buildings on Camden High Street, these changes would not be out of character and would contribute to the vibrant nature of the street scene.

18. The proposal would also introduce a duo-pitched roof behind the existing parapet, which would be visible from public vantage points including on Buck Street. The roof would be a modest structure that would reflect others on the host terrace by way of its height, width, and materials. Therefore, the proposed roof would be a congruent feature to local character and would contribute to the uniformity in the height and form of buildings in the host terrace.
19. Given that the changes to the principal frontage of the appeal building would be sympathetic to the local area, no harm would be caused to the significance of the CTCA or the RCCA through development within their settings.
20. The appeal scheme would add substantial bulk and mass to the rear of the appeal property through one and two storey rear extensions, which would be deep structures, extending across the full width of the plot. The extensions would be set-back from the ground floor rear elevation. However, at up to two-storeys high with a flat roof and significant depth, the extensions would have a bulky and boxy form that would lack subordination to the host property. Moreover, given their depth and height, the rear extensions would significantly erode the upper floor space around Arlington House and would therefore fail to respond positively to the existing relationship between the buildings.

#### Appeal B

21. The proposed mansard roof extension would be a substantial structure that would extend over almost the full depth of the proposed first and second floor rear extensions. The slope of the mansard roof would be set back behind the parapets. However, when combined with the proposed extensions beneath it, it would be a large and imposing structure that would conceal most of the existing rear elevation of the host property. The proposed development would therefore fail to harmonise with the host building or neighbouring development.
22. The proposed mansard roof would also significantly increase the height of the host property above other buildings in the terrace. Therefore, it would disrupt the uniformity in height that is characteristic of this part of Camden High Street. Moreover, whilst I observed a mansard roof on a property on the other side of the road, I did not observe any other mansards on the host terrace. Therefore, it would be an incongruent feature that would detract from local character.
23. I have had regard to the street geometry diagram submitted by the appellant. However, from my observations and given the absence of other similar roofs on the terrace, the proposed mansard extension would be unduly prominent in views from the far side of Camden High Street, Buck Street, and from within the CTCA. Consequently, and due to its prominence on a key frontage close to and leading to the heart of the CTCA, the appeal scheme would cause harm to the significance of the CTCA from development within its setting. However, due to the lack of intervisibility between the site and the RCCA, no harm would be caused to the significance of the RCCA through development within its setting.
24. I am mindful that national policy and guidance, including the Framework, provide support for mansard roof extensions on suitable properties where their external appearance harmonises with the original building, including extensions to terraces where one or more of the terraced houses already has a mansard. However, given that the proposed mansard roof would not harmonise with the original building and there is a lack of other similar extensions within the host

terrace, the Framework does not provide support for the appeal scheme in this case.

25. I have been referred to a recent appeal decision at Blurton Road, Hackney<sup>1</sup> where a mansard roof was allowed. However, Blurton Road is not located near to the appeal site and, therefore, the character of the area is not directly comparable. Moreover, the Inspector for the Blurton Road appeal concluded that the mansard roof would be subservient to the host property. It is therefore materially different from the appeal scheme, which would lack subservience to the host property. I have also been provided with a second appeal decision where a mansard roof was refused permission in Offord Road, Islington<sup>2</sup>, which is within a CA. I do not find this appeal decision to be relevant to the appeal scheme, which is located outside of a CA.

#### Appeals A and B

26. Whilst the proposed rear extensions would not be visible from Camden High Street, views would be available from adjacent properties, including through windows in Arlington House. Given their height, bulk, depth and overall volume, the proposed developments would be unduly prominent in those views. Furthermore, the absence of public views does not negate the need to secure good design, which is a clear requirement of the Framework.
27. I have had regard to the dimensions of other buildings near to the appeal site, including 231-233 Camden High Street, which has a tall and deep rear elevation. I do not have full details before me to identify the circumstances that led to that development becoming established. However, from my observations it is not directly comparable to the appeal schemes as it is offset from the rear and side elevations of Arlington House. Moreover, the development at Nos 231-233 does not alter my conclusions about the effect of the proposals on the character and appearance of the host property and local area.

#### Appeal A Conclusion

28. Although no harm would be caused to the significance of the CTCA or the RCCA through development within their settings, I conclude that the Appeal A scheme would cause harm to the character and appearance of the host property and area, Therefore, there would be conflict with Policy D1 of the Camden Local Plan 2017 (LP), and the Framework, insofar as they expect development to secure high quality design that respects local character.

#### Appeal B Conclusion

29. Although no harm would be caused to the significance of the RCCA, I conclude that the proposed Appeal B scheme would cause harm to the character and appearance of the host property and local area, including to the significance of the CTCA through development within its setting. There would be conflict with Policy D1 of the LP, and the Framework, insofar as they expect development to secure high-quality design that respects local character and to preserve or enhance the historic environment and heritage assets.
30. I will consider the harm caused to the significance of the CTCA further in my overall heritage and planning balance.

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<sup>1</sup> Appeal Ref. APP/U5360/W/22/3300193, dated 17 January 2023

<sup>2</sup> Appeal Ref. APP/V5570/W/22/3306265, dated 2 February 2023

31. The Council has referenced Policy A1 of the LP on its decision notice, which refers to the protection of the quality of life of occupiers and neighbours rather than local character. Therefore, I do not find Policy A1 of the LP to be determinative in my consideration of this main issue.

*Standard of accommodation*

32. Amongst other things, Policy D6 of The London Plan (March 2021) (LonP) and the Technical Housing Standards - Nationally Described Space Standard (March 2015) (NDSS) set out minimum space standards for new dwellings. For one-bedroom, two-person dwellings such as those proposed in the appeal schemes, the minimum internal floorspace standard is 50 square metres (sqm).

Appeals A and B

33. The parties' views are not aligned as to the internal floorspace for the proposed first-floor apartment. However, even if I were to take the appellant's position that the floorspace would be 48.8sqm, it would fall below the minimum standard set out in Policy D6 of the LonP and the NDSS. The submitted plans show that the internal layout of the proposed first-floor apartment would comprise a bedroom and small shower room, along with one other room that would be used for cooking, dining, and living space. However, a large proportion of the internal floorspace would be taken up by a central corridor connecting the bedroom and the main living space.
34. Given the deficiency in the overall floorspace along with the disproportionate size of the proposed corridor, circulation within the proposed main living, kitchen and dining area would be tightly constrained. Whilst the plans indicate there would be space for a dining table and a sofa within the apartment, there would be limited space between fixed units and walls for the placement of other furniture. Consequently, movement within the apartment would be compromised to the degree that the proposed living space would be cramped and unpleasant for two-person occupancy.

Appeal B

35. I have been provided with two alternative floorspace calculations for the third-floor apartment. However, even if I were to take the appellant's calculation of 49.3sqm, the apartment would fall short of the minimum standards set out in Policy D6 of the LonP and the NDSS.
36. Like the first-floor apartment, a large proportion of floorspace would be taken up by a central corridor connecting the bedroom with a shared living, dining and kitchen space. Therefore, the evidence does not persuade me that there would be sufficient space for the placement of all furniture likely to be required by two occupants, without unduly compromising circulation space. The third-floor flat would therefore be cramped and uncomfortable for future occupants.
37. Appeals A and B
38. I have had regard to the fact that the deficiency in floorspace for both the first- and third-floor apartments would be modest. However, the standards set out in Policy D6 of the LonP are clearly minimum standards and there is no persuasive evidence before me to demonstrate that a departure from these standards should be made for the proposed developments.

### Conclusion

39. Both appeal schemes would fail to provide an adequate standard of accommodation, with particular regard to the internal floor area within the proposed first-floor apartment and, for Appeal B only, also the proposed third-floor apartment. Both appeals would therefore conflict with Policy H6 of the LP, Policy D6 of the LonP, and the Framework in respect of internal space standards.
40. Policy H7 of the LP, which is referenced on the Council's draft decision notice does not refer to the standard of accommodation in dwellings. Therefore, I have not found it to be determinative to my consideration of this main issue.

### *Setting of listed building*

41. The Grade II listed Arlington House is an imposing landmark with richly detailed terracotta dressings and a distinctive roofscape, which includes towers with pyramidal roofs and finials. Its significance is derived, in part, from its architectural details as well as its history as a Rowton House, which was built to provide accommodation for single men in the late 19<sup>th</sup> and 20<sup>th</sup> Centuries. Section 66(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard is had to the desirability of preserving a listed building or its setting.
42. The listed building is surrounded to the sides and rear by the rear elevations of buildings, including the appeal site. However, as set out above most buildings on Camden High Street step down in height towards Arlington House, which aids the experience of the listed building as a tall and grand property that is a separate entity to surrounding developments.
43. The roofscape and towers of Arlington House are visible within the street scene from Camden High Street and are particularly prominent in views from Buck Street. These views allow the architectural and historic interest of the listed building to be experienced by visitors to Camden High Street and help to reveal the rich history of the area. As part of its immediate setting, the appeal site helps to embed Arlington House within the wider urban context and, therefore, contributes positively towards its significance.

### Appeal A

44. The proposed duo-pitched roof would increase the height of the proposed building and, consequently, it would partially block views of the listed building from Buck Street. However, the roof structure would be a harmonious addition to the appeal property, reflecting the traditional roofs on neighbouring properties and, therefore, would contribute positively to the urban setting of the listed building. Moreover, the duo-pitched roof would be modest in size and scale and, therefore, the pyramidal roofs and finials on the listed building would retain their dominance in views from the public realm.
45. Although there would be no changes to the built form at ground floor level, the proposed development would encroach towards the listed building at the upper floor levels. Consequently, and owing to its height, depth and overall volume, the development would erode the space around the listed building that sets it apart from the urban development around it. The proposed development would therefore detract from the experience of Arlington House as a separate entity

from the surrounding development. Consequently, the proposed development would fail to preserve the setting of the Grade II listed Arlington House.

#### Appeal B

46. As set out above, the proposed mansard roof would project well beyond the existing height of the host building. Therefore, it would significantly block views of the pyramidal roof and towers that can currently be gained from Buck Street and from the far side of Camden High Street. Moreover, due to its height and the absence of other similar roof structures on neighbouring buildings, the mansard roof would be unduly prominent in the street scene by way of its incongruence. Consequently, even where views of the listed building are retained, the proposed development would detract from the experience of Arlington House as a building of prominence within the local area.
47. To the rear, and due to its height, depth and volume, the proposed roof extension would exacerbate the loss of space around Arlington House that would be caused by encroachment towards it at first and second floor levels. Therefore, the proposed development would fail to preserve the setting of the Grade II listed Arlington House.

#### Conclusion

48. I conclude that both proposed developments would fail to preserve the setting of the Grade II listed Arlington House. Therefore, there would be conflict with Policy D1 of the LP, and the Framework, insofar as they expect development to preserve or enhance the historic environment and heritage assets.
49. It follows that there would be some harm to the significance of the listed building through development affecting its setting. Owing to the scale and nature of the proposals, the degree of harm would be less than substantial. I consider this further in the overall heritage and planning balance.

#### *Parking and car-free development*

50. The appeal site is located within a Controlled Parking Zone where I observed significant parking pressure. Both appeal schemes would increase the number of residents in the area, therefore they could exacerbate parking pressure if the future occupants were to own cars. The area is also very well connected by public transport.
51. Amongst other things, Policy T2 of the LP states that all new developments in the borough will be car-free. The supporting text to Policy T2 states that car-free development means that no car parking spaces are provided within the site other than in specific circumstances and, in addition, current and future occupiers are not issued with on-street parking permits. Policy T2 also states that the Council will make use of legal agreements to ensure future occupants are aware they are not entitled to parking permits.
52. Neither of the appeal schemes include parking provision for future occupiers. However, the absence of on-site parking would not necessarily restrict future occupiers from owning and parking a vehicle in off-site car parking spaces.
53. I have been provided with a signed and dated legal agreement in respect of Appeal A, which includes obligations that prevent future occupants of the



proposed apartments from applying for or holding a resident's parking permit or contract to park in any car park under the control of the Council.

54. I note that the appellant does not consider a legal agreement to be necessary. However, it would ensure that the development was permanently car-free as defined in the supporting text to Policy T2 of the LP and would not lead to an increase in parking and congestion in the local area. It would also ensure that sustainable and active travel modes are prioritised in an area that is well-connected by public transport. I am therefore satisfied that the measures are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.
55. However, I have not been provided with a similar obligation for the Appeal B scheme. Therefore, there would be no enforceable mechanism by which the Council could restrict future occupants of the development from owning and parking a vehicle in off-site car parking spaces.

#### Conclusion

56. Taking account of the submitted legal agreement, I conclude that the Appeal A scheme would comply with development plan policies in respect of parking and car-free development. Consequently, there would be no conflict with Policy T2 of the LP insofar as it seeks to limit the availability of parking and requires all new developments to be car-free. There would also be no conflict with Policy DM1 of the LP insofar as it states that the Council will use planning obligations where appropriate to mitigate the impact of development.
57. In the absence of a planning obligation, the Appeal B scheme would not be guaranteed to be car-free and, therefore, there would be conflict with Policy T2 of the LP insofar as it seeks to limit the availability of parking and requires all new developments to be car-free. There would also be conflict with Policy DM1 of the LP insofar as it states that the Council will use planning obligations where appropriate to mitigate the impact of development.

#### *Affordable housing*

58. The parties' views are not aligned as to the precise quantity of additional residential floorspace that would be created by the Appeal B scheme. However, even if I were to take the appellant's calculations, the additional residential floorspace would exceed 100sqm. Therefore, a contribution to affordable housing provision is required in accordance with Policy H4 of the LP.
59. Although the appellant has stated in its evidence that it would agree to a financial contribution towards affordable housing provision, I have not been provided with a planning obligation to secure the contributions. Therefore, there would be no enforceable mechanism available through which the Council could ensure the contributions are paid. There are also no mitigating circumstances before me to indicate that the contributions are not necessary to make the development acceptable in planning terms.
60. I conclude that the Appeal B scheme would fail to provide adequate provision for affordable housing. Therefore, there would be conflict with Policy H4 of the LP which seeks to maximise the supply of affordable housing.

## **Other Matters**

61. No objections have been raised to the principle of a residential use at the appeal site, including the loss of retail space. From the evidence, I have no reason to take a different view.
62. It has been put to me that the proposed developments could be permitted under the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) if there was an alternative ground floor use. However, the plans which have been submitted show a hot food takeaway on the ground floor. In these circumstances planning permission is required and I have determined the appeals on this basis.

## **Heritage and Planning Balance**

63. Both appeal schemes would cause harm to the significance of the Grade II listed Arlington House and, in the case of Appeal B, there would also be harm caused to the significance of the CTCA through development within its setting. In all cases, the level of harm would be less than substantial. The Framework states that great weight should be given to the conservation of a designated heritage asset, irrespective of the level of harm. Paragraph 208 of the Framework requires the less than substantial harm to the significance of a designated heritage asset to be weighed against public benefits.
64. Both appeal schemes would offer some social and economic benefits, which are also public benefits, including the delivery of additional housing units in a well-connected area where there is evidence of an under-supply.
65. However, the social and economic benefits associated with the delivery of two housing units (Appeal A) or three housing units (Appeal B) would be modest. I therefore attach moderate weight to these benefits, which would not be sufficient to outweigh the great weight that the conservation of a designated heritage asset carries. The proposals therefore fail to accord with the historic environment protection policies in the Framework.
66. I have identified that both appeal schemes conflict with the development plan policies identified above, which is sufficient to bring each proposal into conflict with the development plan when read as a whole. Developments that conflict with the development plan should normally be refused unless material considerations indicate otherwise.
67. I have limited evidence before me to be certain about the Council's housing land supply position. However, the Government's 2022 Housing Delivery Test results show the delivery of housing in the Borough has fallen below 75% of the housing requirement over the previous three years. In this circumstance, paragraph 11(d) of the Framework is engaged.
68. However, I have identified that both appeals would cause harm to the significance of the Grade II listed Arlington House. In the case of Appeal B, I have also identified harm would be caused to the significance of the CTCA through development within its setting. These harms would not be outweighed by public benefits.
69. The harm to heritage assets provides a clear reason for refusing the developments proposed under the provisions of paragraph 11(d)(i) of the

Framework. Therefore, the balance in favour of granting planning permission given by paragraph 11(d) of the Framework does not apply to either appeal.

### **Conclusion**

70. No harm would arise in respect of the effect of the proposals on the RCCA. Moreover, the Appeal A scheme would not cause harm to the significance of the CTCA. However, harm would arise in respect of all other main issues for both appeal schemes. Consequently, both the Appeal A scheme and the Appeal B scheme would conflict with the development plan when read as a whole. The material considerations do not indicate that decisions should be made other than in accordance with the development plan. Therefore, for the reasons given above, I conclude that both Appeal A and Appeal B should be dismissed.

*E Catcheside*

INSPECTOR