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PINS Ref: APP/X5210/W/24/3343553
Our ref: 2023/2627/P
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Planning Solutions Team
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Dear Sir/Madam,

www.camden.gov.uk/planning

Appeal site: 5 Hargrave Place, London, N7 0BP

Appeal by: Hargrave Development Ltd

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

I refer to the above appeal against the Council's refusal to grant planning permission. The Council's case is largely set out in the Officer's delegated report. The report details the application site and surroundings, the site history and an assessment of the proposal. A copy of the report was sent with the questionnaire.

In addition to the information sent with the questionnaire, I would be pleased if the Inspector could take into account the following information and comments before deciding the appeal.

1. Summary

- 1.1. The application site relates to a detached part-two, part-four storey brick building located on the southern side of Hargrave Place, a cul-de-sac off Brecknock Road. The building is in mixed use with light industry (use class B1(c)) at ground floor level and six residential units occupying the first, second and third floors. It is located between 3 storey (plus mansard) buildings to the east, 2.5 storey block of flats to the south, a 3 storey pub to the west (with a 4 storey estate in the background) and 4 storey buildings to the north (one with a mansard). The surrounding area is characterised by a mix of commercial units and residential uses.
- 1.2. The site is not situated within a conservation area and is not listed but is within the Kentish Town Neighbourhood Area. The neighbouring properties on Brecknock Road form part of the Brecknock Road/York Way Neighbourhood Centre. The building is adjacent to the Admiral Mann Public House, at 9 Hargrave Place, and 9A Hargrave Place to the rear, both of which are locally listed. See appendix 3 at end of letter for site plan.
- 1.3. The proposal seeks to add an additional storey to the four-storey part of the building, providing two additional flats.
- 1.4. The planning application was refused for the following reasons:

1. *The proposed development, by virtue of its design and impact on the height and massing of the host building, would result in an overly dominant building that would detract from both the host building, the character and appearance of surrounding area and the adjacent locally listed public house contrary to policies D1 and D2 of the Camden Local Plan 2017 and policy D3 of the Kentish Town Neighbourhood Plan 2016.*
2. *The proposed development, owing to the introduction of new windows in close proximity to the existing rooflights of 5-7 Brecon Mews, would lead to overlooking and a harmful impact on neighbouring amenity, contrary to Camden Local Plan policy A1.*
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 Policies H4 and DM1 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 and DM1 of the Camden Local Plan 2017.*

2. Status of Policies and Guidance

- 2.1. The Camden Local Plan was adopted in 2017. It is currently under review. There would be no material differences within the emerging plan in relation to this appeal. There are also no material differences between the council's policies, The London Plan and NPPF in relation to this appeal.

3. Summary of grounds of appeal

- 3.1. The appellant's grounds of appeal focus predominantly on the first two reasons for refusal (design and amenity), as in relation to the third and fourth reasons (absence of a section 106 legal agreement) the appellant is willing to enter into a legal agreement should the appeal be allowed. The subject of the first and second reason for refusal are summarised below following appraisal of the site.
- 3.2. The appellant maintains that the proposed additional storey would not cause harm to the character or appearance of the host building or the surrounding context.
- 3.3. The appellant insists that there would be no material harm to the amenity of neighbouring residents.

4. Cross refer to Delegated Report for Assessment at this Stage

- 4.1. The scheme is assessed fully in the delegated report and is not repeated here. The inspector is directed to the delegated report at this stage. The following focuses on the appellant's statement of case.

5. Council's Response to the Appellant's Statement of Case

Reason for refusal 1 (Design)

- 5.1. *'The proposed development, by virtue of its design and impact on the height and massing of the host building, would result in an overly dominant building that would detract from both the host building, the character and appearance of surrounding area and the adjacent locally listed public house contrary to policies D1 and D2 of the Camden Local Plan 2017 and policy D3 of the Kentish Town Neighbourhood Plan 2016.'*
- 5.2. Section 4.1 of the appellant's statement states that there is no singular prevailing height datum in the immediate area, nor consistent roof profile, specifically to the north, south or west. Although this is acknowledged, it is noted that four storeys, or three storeys and a mansard level, is the common and recurring maximum building height, with the exception of one singular building opposite that is four storeys plus mansard. In regard to the building opposite, it is a narrow property with a shallow depth, and its end-of-terrace nature means the impact of its mansard level is minimised by the adjoining properties, particularly as seen from Brecknock Road.
- 5.3. Section 4.2 of the appellant's statement refers to the general scale of a London mansion block. The host building is not a mansion block and therefore this reference is irrelevant.
- 5.4. Section 4.3 of the appellant's statement states that due to the stepped form of the building there would be no significant change to the overall perception of the form of the building if the appeal was allowed. While acknowledging the new storey would be set back, the Council maintains that an additional storey will have considerable impact on the perception and appearance of the building. The Council's notes that, unlike the building opposite, the flank wall of the host building is exposed and therefore any increase in height would have considerable visual impact as seen from Brecknock Road. Due to its high visibility, it would be perceived as a fifth storey rather than a less noticeable mansard storey.
- 5.5. It is noted that the building form is already stepped in two levels (a two-storey section and a four-storey section) and that increasing the mass of the taller section would exaggerate and undermine this current stepping. The original approval for the construction of the host building took care to ensure the locally listed public house adjacent was not dwarfed. The Council would also highlight, as seen in figures A and B of the delegated report, that the building has been built substantially higher than the original approved drawings, and that the drawings for this application have not been corrected but continue to miscommunicate the levels of the host building in relation to the adjacent public house. The Council maintain that any additional height would be harmful to the relationship between the two buildings and would highlight that the discrepancy between the drawings and the development as built means that any additional

storey would have a greater impact than the proposed elevations currently suggest.

- 5.6. It is noted that the recessed section of the building, highlighted in section 4.6 of the appellant's statement, is central and therefore would not significantly reduce the mass of the building were another storey to be added to the main and tallest part of the building. Nor would the continuation of the central recess serve to minimise the impact of the additional storey as seen from Brecknock Road as it does not reduce the profile of the flank wall.
- 5.7. In response to section 4.4, while the Council is supportive of appropriate upwards extensions to provide additional housing units, these will not be approved where the gain is outweighed by design and amenity concerns.

Reason for refusal 2 (Amenity)

- 5.8. *'The proposed development, owing to the introduction of new windows in close proximity to the existing rooflights of 5-7 Brecon Mews, would lead to overlooking and a harmful impact on neighbouring amenity, contrary to Camden Local Plan policy A1.'*
- 5.9. The proposal would introduce new fenestration (windows and Juliette balconies) to the rear of the property on the new storey. The Council has concern about these new viewpoints in relation to overlooking of the properties below at Brecon Mews which benefit from sets of angled and horizontal rooflights.
- 5.10. In section 4.8 of the appellant's statement of case, the appellant states that the minimum distance guidance (Amenity CPG) in relation to overlooking into nearby habitable rooms does not apply, as the overlooking is not considered direct.
- 5.11. While the delegated report is clear that the rooflights of the neighbouring property are the reason for concern, the appellant has provided a photo of the rear wall of Brecon Mews instead (section 4.11 of their statement of case).
- 5.12. Whether or not the 18m guidance is considered appropriate, the Council is concerned that the new fenestration (both windows and Juliette balconies) at high level would create a view straight down into the adjacent rooflights of the properties at Brecon Mews which are in close proximity. Without any drawings or studies showing the relationship between the new storey and the rooflights of the properties to the rear, there is no reason for the Council to assume that the angle would not facilitate a clear view down into the neighbouring properties.

Reason for refusal 3 (affordable housing)

- 5.13. *'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 Policies H4 and DM1 of the Camden Local Plan 2017.'*

5.14. Please refer to section 5 below.

Reason for refusal 4 (car free)

5.15. *‘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 and DM1 of the Camden Local Plan 2017.’*

5.16. Please refer to section 5 below.

6. Section 106 reasons for refusal

6.1. It is noted that the Appellant is willing to enter into a legal agreement to overcome reasons for refusal 3 and 4 of planning permission ref. 2023/2627/P, which relates to the lack of a section 106 to secure affordable housing and car-free housing. As such, the Council is providing the appellant with a draft section 106 planning obligation and will update the Inspector at final comments stage as to whether an agreement has been reached.

6.2. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the “CIL Regulations”) creates statutory tests to determine whether a planning obligation is capable of being a reason for granting planning permission. Obligations must be:

- 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.

6.3. Current government guidance on the application of Section 106 is contained within the Planning Practice Guidance (NPPG) on Planning Obligations and the Use of Planning Conditions.

6.4. In this case, it is necessary to secure car-free housing to ensure the development promotes healthy and sustainable transport choices, an affordable housing payment to maximise the contribution of the site to the supply of affordable housing in the borough and a Construction Management Plan to ensure that the development can be implemented without causing detrimental impact to residential amenity or the safe and efficient operation of the highway network in the local area in accordance with policies A1, T1, T2 and H4 of the Camden Local Plan 2017.

Reason for refusal no.3 (affordable housing)

6.5. The appeal scheme proposes the creation of 102 sqm (GIA) of residential floorspace. Policy H4 expects a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to the residential floorspace of 100sqm GIA or more. Under policy H4, for developments with a capacity of less than 25 units, the affordable housing

contribution is based on a sliding scale with the target starting at 2% for an additional home (at 100sqm) and is increased by 2% for each home added to the capacity. Based on the floorspace uplift (rounded to the nearest 100sqm), the affordable housing contribution would be 2% (based on a GIA of 102 sqm). The CPG Housing applies a multiplier of £5,000 to the target affordable floorspace based on GIA, so in this case it is 2% of 102 sqm which results in an affordable housing contribution of £10,200.

- 6.6. The most appropriate way of obtaining the financial contribution is via a s106 legal agreement and it is understood from the appellant's statement of case that they are willing to provide the full contribution should the appeal be allowed. A draft copy of a section 106 legal agreement has been sent to the appellant and PINs will be updated on any progress at the final comments stage.

CIL Compliance:

- 6.7. The contribution is considered to be CIL compliant. It is necessary in planning terms as identified in the development plan to mitigate against the increased impact that will be generated by the development. The contribution has been calculated taking into account the particular characteristics of the development, it is directly related to the development and is fairly and reasonably related in scale and kind to the development.

Reason for refusal no.4 (car-free)

- 6.8. The Council's adopted policies T1 and T2 seek to limit the opportunities for parking within the borough as well as prioritise the needs of pedestrians and cyclists to ensure that sustainable transport will be the primary means of travel, reduce air pollution and local congestion. The appeal site is located within a Controlled Parking Zone (CA-M) and has a PTAL rating of 4. Therefore, the development should be secured as car-free via a covenant under s.16 of the Greater London Council (General Powers) Act 1974 and other local authority powers if the appeal were allowed.
- 6.9. A planning obligation is considered the most appropriate mechanism for securing the development as car-free as it relates to controls that are outside of the development site and the ongoing requirement of the development to remain car-free. The level of control is considered to go beyond the remit of a planning condition. Furthermore, a legal agreement is the mechanism used by the Council to signal that a property is to be designated as "Car-Free". The Council's control over parking does not allow it to unilaterally withhold on-street parking permits from residents simply because they occupy a particular property. The Council's control is derived from Traffic Management Orders ("TMO"), which have been made pursuant to the Road Traffic Regulation Act 1984. There is a formal legal process of advertisement and consultation involved in amending a TMO. The Council could not practically pursue an amendment to the TMO in connection with every application where an additional dwelling/use needed to be designated as car-free. Even if it could, such a mechanism would lead to a series of disputes between the Council and

incoming residents who had agreed to occupy the property with no knowledge of its car-free status. Instead, the TMO is worded so that the power to refuse to issue parking permits is linked to whether a property has entered into a “Car-Free” legal obligation. The TMO sets out that it is the Council’s policy not to give parking permits to people who live in premises designated as “Car-Free”, and the Section 106 legal agreement is the mechanism used by the Council to signal that a property is to be designated as “Car-Free”.

- 6.10. Use of a legal agreement, which is registered as a land charge, is a much clearer mechanism than the use of a condition to signal to potential future purchasers of the property that it is designated as car free and that they will not be able to obtain a parking permit. This part of the legal agreement stays on the local search in perpetuity so that any future purchaser of the property is informed that residents are not eligible for parking permits.

CIL Compliance:

- 6.11. The car-free requirement complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to necessarily mitigate against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. This supports key principle 4 of the National Planning Policy Framework: Promoting sustainable transport. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to the parking provision for the site and impact on the surrounding highway network.

7. Conclusion

- 7.1. Based on the information set out above, and having taken account of all the additional evidence and arguments made, the proposal is considered contrary to the Council’s adopted policies.

- 7.2. The information submitted by the appellant in support of the appeal does not overcome or address the Council’s concerns. For these reasons the Inspector is respectfully requested to dismiss the appeal. However, should the Inspector be minded to approve the appeal, suggested conditions are included in Appendix 1.

- 7.3. Similarly to the above, if the inspector were mindful to overrule the Council’s determination, it would be requested that a section 106 legal agreement is secured including the following head of terms:

- Car-free
- Affordable Housing contribution of £10,200

- 7.4. If any further clarification of the appeal submission is required please do not hesitate to contact Miriam Baptist on the above direct dial number or email address.

Kind regards

Miriam Baptist
Planning Officer
Regeneration and Planning
Supporting Communities

Appendix 1 – Suggested Planning Conditions

1. The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans: GAL 200 (PC) 001, GAL 358 (PC) 002 B, GAL 358 (PC) 003 A, GAL 358 (PC) 004 A, GAL 358 (PC) 005, GAL 358 (PC) 010, GAL 358 (PC) 011 A, GAL 358 (PC) 012 A, GAL 358 (PC) 013 A, Letter dated 21st March 2023 from 24 Acoustics RE 1-7 Hargrave Place - Noise Assessment, 1-7 Hargrave Place Daylight and Sunlight Report by Waldrams dated 18 January 2022, Planning Statement by GA Ltd ref GAL 358/IB/ib dated 26 June 2023.

Reason: For the avoidance of doubt and in the interest of proper planning.

3. All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of Policies D1 and D2 of the Camden Local Plan 2017.

Appendix 2 – Supporting Images



Figure (a): Aerial view of the appeal site in context (source: Google 3D)



Figure (b): Street view of the appeal site in context (source: Google Street)



Figure (c): 3D aerial view towards the rear of the property (Source Google 3D)



Figure (d): Appeal site as exists shown in relation to the height of the adjacent locally listed public house to the right (Source: Officer site photo)

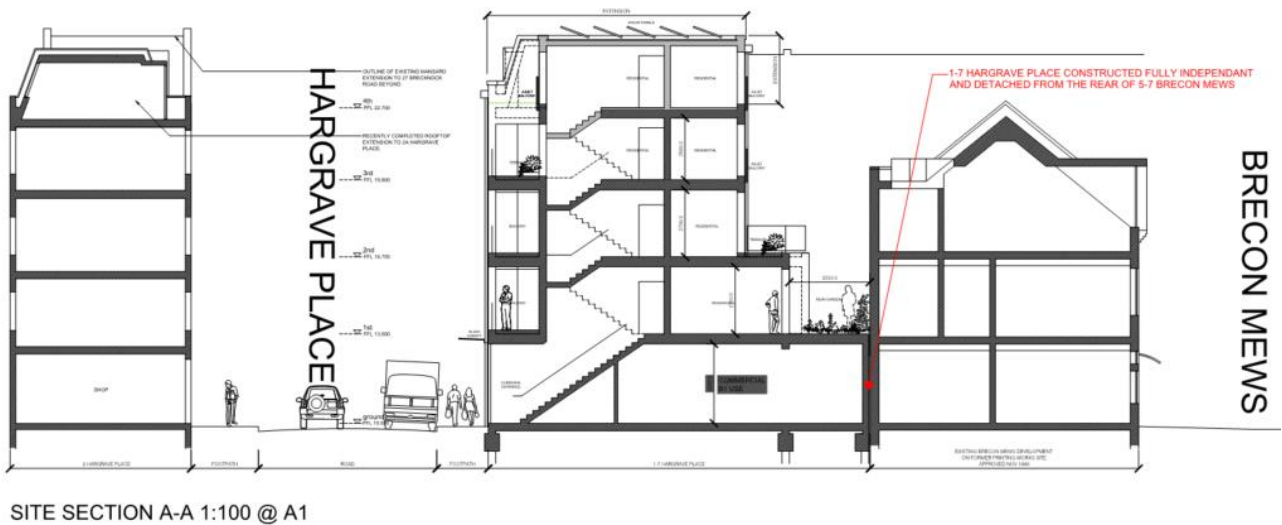


Figure (e): Section of property showing property with proposed additional storey in context of the street and 5-7 Brecon Mews to the rear. N.B. drawings not considered accurate in terms of height of appeal site building. (Source: application drawings)

Appendix 3 – Heritage Map

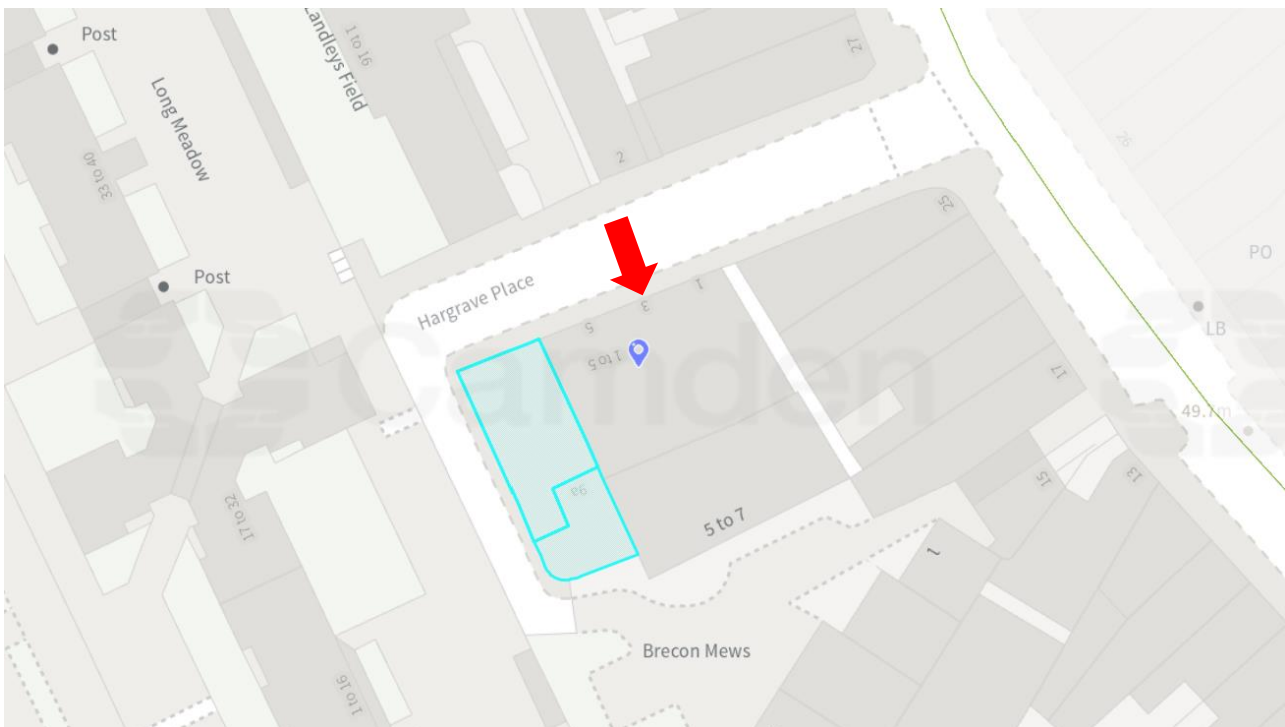


Figure (f): Heritage map with arrow highlighting the appeal site, and the neighbouring locally listed buildings shown in blue. (Source: Camden GISMO)