

## Appeal Decision

Hearing held on 1 October 2024

Site visit made on 1 October 2024

**by C Carpenter BA MA MRTPI**

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

**Decision date: 23<sup>rd</sup> October 2024**

**Appeal Ref: APP/X5210/W/24/3346714**

**71 Avenue Road, Camden, London NW8 6HP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Meir Noo Noo and Susan Gareh against the decision of the Council of the London Borough of Camden.
  - The application Ref is 2022/2529/P.
  - The development proposed is erection of a two storey, single family dwellinghouse (Class C3) with basement and accommodation in the roof space, following the demolition of the existing main dwellinghouse.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Two reports submitted with the appeal were not before the Council when it made its decision. These are the Existing Brick Condition Survey (May 2024) by Adkins Consultants (BCS) and the Whole Lifecycle Carbon Assessment (June 2024) by XCO<sub>2</sub> (WLCA). These reports provide additional supporting information for, but do not change, the proposed development. The Council brought them to the attention of interested parties via a notification letter. I am therefore satisfied all parties have had an opportunity to comment on these reports, and I have taken them into account in my decision.
3. The appellants asked to submit two further reports just before the hearing. I was not satisfied there was sufficient time for all parties to consider them prior to the hearing, particularly given their technical content. Therefore, in the interests of procedural fairness, I did not accept them.
4. After the hearing, the Council submitted an appeal decision for another site in Camden<sup>1</sup>. I consider it relevant to this appeal and, given its date, it could not have been submitted in evidence any earlier. I gave the appellants the opportunity to comment on this other appeal and have consequently taken it, and the parties' comments about it, into account.

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<sup>1</sup> Reference APP/X5210/W/24/3337445 dated 2 October 2024

5. The Council has undertaken consultation on an emerging Draft Local Plan under Regulation 18 of the Town and Country Planning (Local Planning) (England) (Regulations) 2012. I am not aware of the extent of unresolved objections or whether its policies will be considered as consistent with the National Planning Policy Framework (the Framework). Therefore, in accordance with paragraph 48 of the Framework, I give it limited weight.
6. On 30 July 2024 the Government published a consultation on proposed revisions to the Framework. At the hearing, I invited the parties to consider whether the proposed revisions had relevance to this appeal and have taken account of their responses. The proposed revisions are draft and therefore may be subject to change before the final Framework is published. Accordingly, I give them limited weight.

### **Main Issues**

7. The main issues are:

- whether the need to demolish and replace the existing building has been demonstrated, having regard to resource efficiency and the objective to reduce carbon dioxide emissions; and
- whether the proposal would make adequate provision for construction management, highways works and highway safety checks.

### **Reasons**

*Whether the need to demolish has been demonstrated*

8. Policy CC1 of the Camden Local Plan 2017 (CLP) requires all development to minimise the effects of climate change and encourages them to meet the highest feasible environmental standards that are financially viable during construction and occupation. To this end, the Policy requires all proposals that involve substantial demolition to demonstrate it is not possible to retain and improve the existing building; and expects all developments to optimise resource efficiency. Supporting text at paragraph 8.3 explains the objective of the Policy is to limit carbon dioxide emissions from new development wherever possible to achieve carbon dioxide reduction targets.
9. The Camden Planning Guidance Energy Efficiency and Adaptation Supplementary Planning Document 2021 (EEA SPD) provides guidance about implementation of CLP Policy CC1. For development proposing substantial demolition, this seeks a condition and feasibility study to understand the reuse potential of the existing building. The SPD includes a list of the information expected in such studies, which should in turn inform exploration of all potential options for a site following a four-step hierarchy. The stated aim of the options appraisal is to optimise resource efficiency, with all options achieving maximum possible carbon dioxide emissions reductions.
10. The EEA SPD seeks a technical review of the existing building to inform understanding of potential for its reuse. The BCS assesses some aspects of No 71's current condition, identifying increased porosity in façade bricks, likely caused by sandblasting of the building's elevations; and reduced durability of brickwork where brick faces have been damaged by freeze-thaw action. The report estimates 30 per cent of the facing bricks would need to

be replaced over the next 10 years. Photographs show problems of damp and mould on the building's interior, examples of which I observed on my site visit. However, there is little technical evidence before me about other aspects of the structure, such as the roof or windows, or their contribution to the building's overall condition.

11. At the hearing, the appellants' architect said he had assessed the existing building's mechanical, electrical and plumbing services (MEP) on site and concluded they could not be retained. Nevertheless, this assessment is not substantiated by evidence of the thermal performance and efficiency of the existing MEP, its remaining lifespan or the pros/cons of plant upgrade, as expected in the EEA SPD.
12. Appendix A of WLCA shows the extent of the existing building considered to be retainable as part of a refurbishment scheme. This would comprise little more than two façades of the house, with 30 per cent of the face brick replaced plus reinforcement. However, this apart, the factors and reasoning that led to the conclusion that other parts of the building could not be retained are not set out.
13. The appellants' consultants described at the hearing potential difficulties with preventing damp, even if retained façades were upgraded. Yet the evidence before me is insufficient to persuade me such an approach would be technically impossible. Indeed, the refurbishment option set out in WLCA suggests it would in principle be feasible.
14. It was put to me that the cost of rectifying the brickwork would not be proportionate to the value of the property and may not extend the lifespan of the property to a worthwhile extent. I recognise that cost is an important consideration in the appraisal of alternative options, as is the market value of the property before and after works. However, information quantifying the relative cost of alternative approaches, or about how market values in the area would affect development viability, is not before me. In relation to lifespan, it is unclear how much maintenance would be required during the 60 years assumed in the refurbishment option in the WLCA, or how costly this would be. These gaps in supporting information limit the weight I can give to cost and viability considerations.
15. In terms of potential to reduce carbon dioxide emissions, the WLCA finds little difference between the two options it considers, which are comparable in floor area. The new build scheme is found to emit only slightly more CO<sub>2</sub> than the refurbishment/extension alternative in the baseline position, and slightly less once additional reduction measures are applied. At the hearing, the appellants' sustainability consultant confirmed this relatively small difference could largely be explained by the extent of demolition in the refurbishment option, and the fact that both proposals include a basement, which would inevitably rely on carbon-intensive concrete in its construction.
16. It follows that less demolition and/or not including a basement could potentially reduce the level of carbon dioxide expended in developing the site. The proposed basement would include a pool, which the appellants said would be used in part for therapeutic reasons. However, on the evidence before me, options to redevelop the site without a basement and/or include a pool at ground floor level do not appear to have been explored. Similarly,

whilst I recognise changes in levels on the ground floor of the existing building are hazardous for older occupants, there is no pertinent evidence demonstrating this could not be rectified through a more modest, partial demolition and extension scheme.

17. Furthermore, there is little quantification of the materials in the existing building or their estimated embodied carbon. References in the supporting technical reports to materials reuse are relatively brief, such as crushing and re-use of brick on site and salvage of a proportion of timbers. This does not amount to the comprehensive pre-demolition audit sought by the EEA SPD.
18. Moreover, whilst the WLCA largely follows the methodology expected of such studies, as noted in its own recommendations, the report's assumptions have not undergone the third-party validation advised in relevant guidance<sup>2</sup>. This limits the weight I can give to its conclusions. There is also no compelling evidence the Council had accepted the building could not be retained and improved when it requested the WLCA in June 2023.
19. Taking all this together, I find the appellants' technical reports include some of the condition and feasibility information expected in the EEA SPD but there are considerable gaps in evidence about the existing building. In addition, I am not satisfied all potential development options for the site have been fully tested with a view to achieving maximum possible carbon dioxide emissions reductions.
20. I note the environmental benefits of the proposed new build scheme set out in the Energy and Sustainability Statement and acknowledge the measures included to reduce the operational carbon of the new house. The appellants have indicated their willingness to accept a condition or planning obligation to secure the building's emissions levels. However, many of these measures would be required by another regulatory regime; and, in any case, they do not outweigh the failure fully to explore options to reduce carbon emissions through retention and improvement of the existing building.
21. My attention has been drawn to recent and ongoing demolition and replacement schemes for some other properties in Avenue Road. I do not have full details of these developments so cannot be sure of their circumstances or the extent to which they are directly comparable to those before me. There is therefore little to substantiate the suggestion of inconsistency in the Council's approach to implementation of CLP Policy CC1. In any event, I have considered the appeal on its own merits based on the evidence before me.
22. For the above reasons, I conclude the need to demolish and replace the existing building has not been demonstrated, having regard to resource efficiency and the objective to reduce carbon dioxide emissions. This is contrary to CLP Policy CC1; and to London Plan Policy SI7, which promotes a more circular economy that improves resource efficiency to keep products and materials at their highest use for as long as possible. It is also contrary to the Framework, where it seeks to shape places in ways that contribute to radical reductions in greenhouse gas emissions, and encourages the reuse of existing resources, including the conversion of existing buildings.

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<sup>2</sup> EEA SPD para 9.6 and London Plan Guidance on Whole Life-Cycle Carbon Assessment 2022 para 3.22

*Construction management, highways works and highway safety checks*

23. An executed section 106 agreement has been submitted to secure planning obligations for a construction management plan (CMP) with implementation support and bond, a highways contribution towards replacement footway and crossovers, and basement approval in principle (including highway safety checks). On the evidence before me, I am satisfied these obligations are necessary and directly related to the development. I am also satisfied they align with the Council's advice on fees for CMPs and information about the extent of highways works required, so are fairly related in scale and kind to the proposal.
24. As such, the planning obligations accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for their use set out in the Framework.
25. I therefore conclude the proposal would make adequate provision for construction management, highways works and highway safety checks, in accordance with CLP Policies A1 on managing the impact of development, A5 on basements, and T3 on transport infrastructure.

**Other Matters**

26. The appeal site is within the setting of Grade II listed buildings at 34-37 Queen's Grove and 2 and 3 Norfolk Road. The Queen's Grove properties comprise two pairs of semi-detached stucco villas in a classical style, with cast-iron balconies and doorways flanked by pilasters. 2 and 3 Norfolk Road are detached villas from circa 1830 with a Gothic cottage orné style. The significance of these heritage assets includes their architectural features, evidential value, and group value as mid-19<sup>th</sup> century suburban villas.
27. The buildings' setting includes the St John's Wood Conservation Area East in which they are located and surrounding spacious residential streets including Avenue Road. This setting contributes to the assets' significance by providing an historical connection to, and context for, the affluent 19<sup>th</sup> century suburb that was emerging at the time they were built.
28. The proposed development would replace a detached neo-Georgian house built about 100 years ago with a building of broadly similar scale, siting, appearance and materials. There would be little change to the suburban character of the wider area. I therefore find the proposal would preserve the setting of the Grade II listed buildings in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
29. The proposal would result in a modest improvement to the appearance of the appeal site and provide a well-appointed replacement dwelling. It would also contribute to the local economy through construction. However, these benefits do not outweigh the deficiencies in evidence I have identified.
30. The appellants submitted the proposal following pre-application advice and I appreciate they have endeavoured to overcome concerns previously raised. Nevertheless, the Council's pre-application letter dated September 2019 refers to CLP Policy CC1 and the need to explore retention and alteration of the existing building. The letter also states the advice was provided without prejudice to further consideration of the matter by the Council.

## **Conclusion**

31. I have found the proposal conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be dismissed.

*C Carpenter*

INSPECTOR

## **APPEARANCES**

FOR THE APPELLANTS:

Mr Meir NN Gareh	Appellant
Mr Benjamin Gareh	Appellant's son
Mr Roger Hepher	Planning consultant – hgh Consulting
Mr Ross Williamson	Planning consultant – hgh Consulting
Mr Graham Harris	SHH Architects
Mr Guy Matheson	SHH Architects
Mr Ajjay Dhesi	Sustainability consultant – XCO2
Mr David King	Adkins Consultants Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ewan Campbell	Senior Planning Officer
Ms Nicola Tulley	Principal Planning Policy Officer
Ms Elizabeth Beaumont	Appeals and Enforcement Manager

## **ADDITIONAL DOCUMENTS SUBMITTED AFTER THE HEARING**

DOC1	Pre-application letter Ref 2019/3778/PRE dated 20 September 2019
DOC2	London Borough of Camden Energy Efficiency and Renewable Energy and Sustainability Plan s106 Pro-forma V.3 Part A Pre-implementation and Part B Post Completion

- DOC3 Email from Ms Elizabeth Beaumont dated 2 October 2024 regarding the Council's position on Energy and Sustainability Plans
- DOC4 Email from Mr Ross Williamson dated 2 October 2024 regarding Proposed Energy Obligation/Condition
- DOC5 Draft planning obligation and draft conditions covering Energy Efficiency and Renewable Energy and Sustainability Plan
- DOC6 Appeal decision Ref APP/X5210/W/24/3337445