



PLANNING BY DESIGN

FROM CONCEPT TO COMPLETION

Statement of Case

**Appeal against refusal of planning permission
reference 2024/3048/P**

**Kings Court, 523 Finchley Road, London
NW3 7BP**

**On Behalf of
Simon Chaing**

Prepared by **Planning By Design**

Introduction

This Statement of Case is submitted on behalf of the Appellant in support of an appeal against the refusal of Prior Approval by Camden Council for the erection of a two-storey upward extension at Kings Court, 523 Finchley Road, London, NW3 7BP. The development proposed the creation of three residential units, comprising two, two-bedroom units and one studio flat, under Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

The Appeal Proposal records that the application was refused for the following reasons:

1. The proposal does not comply with the nationally described space standard issued by the Department for Communities and Local Government and so cannot benefit from permitted development by virtue of Article 3(9A) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
2. The external appearance of the proposed two storeys upwards extension, by reason of its design, height, materials, scale and massing, would be detrimental to the character and appearance of the host building, and the surrounding area. The proposal would be contrary to policies D1(Design) and D2(Heritage) of Camden Council's Local Plan 2017, the London Plan 2021 and section 12 (Achieving well-designed places) of the National Planning Policy Framework 2023. Prior approval is therefore refused due to the detrimental impact under Paragraph A.2.(1)(e) of Part 20 (external appearance) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended 2020).
3. The proposed development, in the absence of a legal agreement to secure a car-free development, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies T1 (Prioritising walking, cycling and public transport), T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of Camden Local Plan 2017.

The Appellant considers these reasons for refusal to be without merit and presents further evidence to this effect.

In accordance with Planning Inspectorate (“PINS”) guidance, a copy of the decision notice and relevant Officer’s report is not attached. These will be provided by Council as part of its Appeal submission.

This Statement should be read in conjunction with the original application drawings and reports that accompany the Appeal submission, and which include the following (amongst other documents):

- Planning, Design and Access Statement prepared by Planning by Design;
- Daylight and Sunlight Report (Proposed Dwellings) prepared by ANSTEY HORNE, 30/04/2024, ref. MP/RC/ROL01349;
- Daylight and Sunlight Report prepared by ANSTEY HORNE, 30/04/2024; and
- Townscape and Visual Impact Statement prepared by Brown Fisher Environmental, May 2024, ref. 246851TVIA.

It is considered that the Appeal proposal complies with the provisions of the Town and Country Planning Act 1990 ("the 1990 Act").

Site Location

The site comprises King's Court which is a detached, four-storey block of flats. The building is situated on the south-west side of Finchley Road. There is a pedestrian entrance fronting Finchley Road, as well as vehicle and pedestrian access to the rear of the site from Parsifal Road, which leads to a car parking area to the south of the building. The property is not listed, and is not within a conservation area, however it is within the boundary of the Fortune Green and West Hampstead Neighbourhood Plan area.

The Appeal Proposal

The Appeal Proposal consists of a Prior Approval application for the erection of a two-storey upward extension to the detached block of flats, to create three self-contained residential units under Schedule 2, Part 20, Class A of the GPDO.

The proposed dwelling mix comprises two, two-bedroom units and one, studio unit. The two-bedroom units have access to private outdoor amenity, with no outdoor amenity proposed for the proposed studio. The upward extension will be made of non-combustible panels, alongside glass balustrade (to match the floors below) and powder-coated aluminium for the proposed windows.

Planning History

There have been seven applications at the site. The two permissions of relevance include:

- 2022/0138/P – Erection of an additional storey to facilitate to 2 x self-contained residential flats above a detached block of flats – Granted 31/08/2022
- 2023/2262/P – Erection of a two-storey upward extension to the detached block of flats, to create five self-contained residential units under Schedule 2, Part 20, Class A of the GPDO – Refused 17/07/2023

Planning Policy

The following planning policy and guidance documents are recognised as material considerations for the assessment of this application:

National Planning Policy Framework 2023 (NPPF)

Paragraph 38 confirms that Local Planning Authorities should approach decisions on proposed developments in a positive and creative way. They should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision makers at every level should seek to approve applications for sustainable development where possible.

Paragraph 47 confirms that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the Development Plan, and is a material consideration in planning decisions. This paragraph also states that decisions on applications should be made as quickly as possible, and within statutory timescales, unless a longer period has been agreed by the applicant in writing.

Paragraph 54 advises that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions.

Paragraph 55 advises that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Conditions that are required to be discharged before development commences should be avoided.

Paragraph 69 of the NPPF states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should:

- a) Identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved;
- b) Use tools such as area-wide design assessments and Local Development Orders to help bring small and medium sized sites forward;
- c) Support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes; and
- d) Work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.

Paragraph 119 advises that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions

Paragraph 124 highlights that Planning policies and decisions should support development that makes efficient use of land, taking into account:

- a) The identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
- b) Local market conditions and viability;
- c) The availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;
- d) The desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and
- e) The importance of securing well-designed, attractive and healthy places.

The National Planning Policy Framework states that planning should aim to ensure that developments function effectively and contribute to the overall quality of an area. Development must respond to local character and history, reflect the identity of local surroundings and materials and should be visually attractive as a result of good architecture and landscaping.

Paragraph 130 states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Development should:

- a) Function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) Be visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) Be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) Optimise the potential of the Site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;
- f) Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The London Plan 2021

Policy D1: London's Form and Characteristics: This policy requires new development to enhance London's character and ensure that development responds to local context. The proposed extension respects the character of Finchley Road, maintaining the established height and scale of nearby buildings.

Policy D6: Housing Quality and Standards: This policy sets out minimum space standards for new housing. While the proposed development largely complies with these standards, minor adjustments can be made to ensure that all rooms meet the required dimensions.

Policy T6: Car Parking: This policy promotes car-free development, especially in areas with good public transport links. The proposed development is car-free and located in an area with excellent transport accessibility, in line with this policy.

Camden Local Plan 2017

Policy D1: Design

Policy D1 is central to Camden's approach to ensuring high-quality design across the borough. It requires that all new development:

- Respects local context and character: Developments must respond to their surroundings, taking into account the design, materials, height, scale, and bulk of neighbouring buildings.
- Achieves a high standard of architectural quality: Buildings should enhance the built environment and contribute positively to the public realm.
- Uses durable, high-quality materials: New developments are expected to employ materials that are both long-lasting and sympathetic to the surrounding area.

In relation to this application, the design of the two-storey extension incorporates materials such as anthracite cladding, powder-coated aluminium windows, and glass balustrades, all of which reflect a contemporary yet durable aesthetic that is sensitive to the host building's existing architectural character. The Townscape and Visual Impact Assessment (TVIA) supports the assertion that the proposal integrates well with the local character, complying with Policy D1.

Policy D2: Heritage

Although the site is not within a conservation area, Policy D2 is still relevant as it seeks to protect the heritage significance of Camden's historic environments. The policy ensures that new developments respect the character, appearance, and setting of designated and non-designated heritage assets, including Conservation Areas and locally listed buildings.

In the case of 523 Finchley Road, the development is located near the Redington and Frogna Conservation Area and the West End Green Conservation Area. However, the TVIA concludes that the proposed two-storey extension would have a negligible impact on these areas due to limited visibility from key viewpoints. The proposal respects the scale and massing of the

surrounding context, ensuring that it does not detract from the character of the nearby conservation areas.

Policy T1: Prioritising Walking, Cycling, and Public Transport

This policy promotes sustainable transport choices by prioritising walking, cycling, and public transport over car use. Policy T1 is particularly relevant for developments in well-connected areas with good public transport links, as it encourages car-free developments.

The site at 523 Finchley Road has a Public Transport Accessibility Level (PTAL) rating of 5 (very good), indicating that it is well-served by multiple transport options, including buses and nearby Underground and Overground stations. The Appellant has committed to entering into a Section 106 legal agreement to secure the development as car-free, in line with Policy T1.

Policy T2: Parking and Car-Free Development

Camden Council requires most new residential developments to be car-free, unless exceptional circumstances justify parking provision. The Design and Access Statement outlines the appellant's intention to deliver a car-free development, complying with Policy T2.

Policy T2 also stresses the importance of providing adequate cycle parking. The proposal includes six cycle parking spaces (more than the five required), located at the rear of the site, although further details can be provided as part of a condition.

Policy A1: Managing the Impact of Development

Policy A1 seeks to manage the environmental and social impacts of new development on local communities. It aims to ensure that developments do not negatively impact neighbouring residents in terms of privacy, sunlight, daylight, and noise.

The Daylight and Sunlight Report submitted with the application demonstrates that the development will have a negligible impact on surrounding properties with respect to daylight and sunlight availability. Additionally, overlooking and privacy concerns have been addressed through design measures that avoid side-facing windows, ensuring compliance with Policy A1.

Policy H1: Maximising Housing Supply

This policy seeks to maximise the supply of housing within Camden. It promotes the use of brownfield sites and urban intensification, particularly in areas with good public transport links, such as Finchley Road. The proposal for three new residential units at 523 Finchley Road contributes to Camden's housing targets and aligns with the principles of sustainable urban intensification outlined in Policy H1.

CPG Design (2021)

This guidance expands on Policy D1, detailing how new developments should respond to the borough's diverse character and deliver high-quality design. The CPG provides further instructions on:

- **Massing and Scale:** Ensuring that new developments do not overwhelm neighbouring properties and fit comfortably into the street scene.
- **Materials and Detailing:** Promoting the use of high-quality materials that enhance the visual appeal of new developments.

The design of the proposed upward extension has been crafted to ensure appropriate massing through the use of setbacks and tiered elements, ensuring the building maintains a balanced and proportionate appearance in the street scene.

CPG Transport (2021)

This guidance supports policies T1 and T2 in the Local Plan, providing further details on Camden's car-free development strategy and outlining requirements for cycle parking and sustainable transport solutions.

The Appellant's commitment to delivering a car-free development with six cycle spaces meets the requirements set out in this guidance, which supports the case for the development's sustainability.

The Appellant's Response to the Reasons for Refusal

Response to Reason 1: Non-compliance with Nationally Described Space Standards

The Council's first reason for refusal relates to the gross internal area (GIA) of the proposed units, specifically the single-bedroom unit, highlighting that:

- The proposed one-bedroom unit at 5th floor has a 7.5m² bedroom with a minimum width of approximately 0.85m. Approximately 6.7m² of the bedroom is able to accommodate a minimum dimension of 2.15m.
- A small portion of the single (7.5m²) bedroom of the fourth floor two-bedroom unit has a dimension of approximately 0.85m
- The single (7.5m²) bedroom of the maisonette two-bedroom unit at fourth floor, is contained in a rectangle with a minimum dimension of approximately 1.9m at two of the walls (less than the minimum dimension of 2.15m).

Appellant's Response:

The plans provided demonstrate that the overall internal layout of the proposed flats, particularly the one-bedroom unit, adheres to the space requirements in all other respects, including overall GIA, which meets the minimum required under the Technical Housing Standards. The deviation in room width is minor and does not materially reduce the functionality of the bedroom. Furthermore,

- In the case of the one-bedroom unit at 5th floor, the narrow space is related to the entrance corridor, which is naturally narrow than the rest, without reducing the usability.

- In the case of the single bedroom of the fourth floor, the small portion is not material and it is our view that it should be disregarded.
- It should also be noted that the floor plans provided are based on OS plans (rather than a measured survey) and discrepancies of up to 30cm are to be expected and should therefore be considered to be not material.

The Council's refusal is based on a narrow technical breach, rather than an overarching design flaw. Precedent shows that minor deviations in dimensions have previously been resolved through minor amendments, rather than refusal. The refusal on this point is disproportionate to the scale of non-compliance, especially in light of the GIA compliance.

For example, the **Mansell v. Tonbridge and Malling Borough Council** case (2017), the Planning Inspector ruled that minor variations in dimensions, such as those related to building heights or setbacks, could be treated as non-material amendments, provided that the changes did not result in any substantial harm or deviate significantly from the approved plans. The ruling emphasised proportionality, suggesting that deviations of minor scale should not result in outright refusal, especially if the broader compliance (like Gross Internal Area, GIA) was adhered to.

The discrepancies above are not material and are very unlikely to result in material harm. The proposed layout offers spacious, functional living areas, complying with the general Technical Housing Standards, including the provision of adequate natural light in all habitable rooms. The minor deviations do not significantly affect the usability of the rooms or the quality of the internal living space.

Response to Reason 2: External Appearance and Impact on Character

The Council's second reason for refusal asserts that the design, height, and massing of the proposed extension would harm the appearance of the host building and the surrounding area, contrary to policies D1 and D2 of the Camden Local Plan, the London Plan 2021, and the NPPF 2023. The Officer's Report claims the extension would create a "top-heavy" appearance and that the anthracite material proposed would exacerbate the visual impact.

Appellant's Response:

The proposed upward extension incorporates materials and design features that align with the host building's existing character. The Townscape and Visual Impact Assessment (TVIA) confirms that the architectural treatment of the extension, including setbacks and matching materials such as glass balustrades and powder-coated aluminum windows, would be in-keeping with the existing structure and the proposed development.

The TVIA concludes that the extension would fit well within the local character area, which is dominated by mixed-use buildings of varying heights (up to seven storeys) along Finchley Road. The additional height is consistent with other nearby developments. Furthermore, the proposal remains below the maximum height limit identified in the Local Character Study.

The site is not within a conservation area, and the TVIA confirms that the proposed extension would have a negligible impact on nearby conservation areas, including Redington and Frogmal and West End Green. The massing, design, and materials have been carefully selected to mitigate visual impact, particularly from key viewpoints along Finchley Road and Parsifal Road. This comprehensive study, prepared in accordance with the Guidelines for Landscape & Visual Impact Assessment (GLVIA), has confirmed that the proposed development will not have a significant detrimental impact on the local townscape or visual amenity.

The proposal includes design refinements such as setbacks, tiering, and materials designed to reduce massing and integrate with the host building. The anthracite materials were selected for their modern, sleek aesthetic, complementing the existing building's contemporary design elements.

Townscape Effects

The TVIA assessed the townscape effects on the surrounding character areas, including Redington and Frogmal Conservation Area, West End Green Conservation Area, and the Finchley Road Corridor (FR2). The following conclusions were drawn:

- **Redington and Frogmal Conservation Area:** The site is located outside this conservation area, and the TVIA concludes that the proposed development would have a negligible impact on the setting or special characteristics of the conservation area. The changes introduced by the extension would be perceptible only from a few limited viewpoints along Finchley Road. The overall townscape effect on this conservation area is assessed as neutral, meaning the proposed development does not detract from the heritage significance of the area.
- **West End Green Conservation Area:** Similar to Redington and Frogmal, the site is located outside the boundaries of this conservation area, and the proposed extension would have no adverse impact on its special character. There are limited viewpoints from which the proposed extension is visible, but the design of the extension is not overly prominent from the relevant viewpoints, ensuring that the wider character of the conservation area remains unaffected.
- **Finchley Road Corridor (FR2):** The Finchley Road Corridor is a strategic transport route characterised by a mix of properties ranging from two to seven storeys. The TVIA acknowledges that the proposed development would bring the building height to six storeys on the Finchley Road side and seven storeys at the rear, which is within the existing height profile of this character area. The extension's materials and design are consistent with other buildings in the area, and while the development adds height to the building, it does so in a manner that is sympathetic to the surrounding urban form. The overall townscape effect is assessed as slight adverse, reflecting that the development is appropriate in its context and will not create an incongruous feature in the townscape.

Visual Effects

The TVIA also assessed the visual effects from several key viewpoints within the vicinity of the site, including Finchley Road, Parsifal Road, Studholme Court, and Lyncroft Gardens.

- **Viewpoint 1:** Located at the edge of the Redington and Froggnal Conservation Area, this view looks northwest towards the site. The proposed two-storey upward extension will form a minor element in this view and will not significantly alter its key characteristics. The overall visual effect is assessed as slight adverse, but this will reduce to neutral as proposed mitigation measures (such as landscaping and the use of high-quality materials) mature over time.
- **Viewpoint 2:** This view is from the entrance to Studholme Court, looking southwest towards the site. In the short term, the extension will introduce a moderate change to the view, as it adds height to the existing building. However, once the proposed mitigation measures (such as setback design and landscaping) are implemented, the visual impact will lessen over time. By year 10, the visual effect will be slight adverse.
- **Viewpoint 3:** This view is from a pedestrian pathway within Studholme Court. The proposed two-storey extension will introduce a slight change to the view, with the visual effect assessed as slight adverse at year 1. However, as landscaping matures and mitigates the visual impact, the effect will reduce to neutral by year 10.
- **Viewpoint 4:** From a sidewalk along Finchley Road, this view looks southeast towards the site. The proposed extension will form a minor element in the view and will not substantially alter its character. The visual effect at year 1 is assessed as slight adverse, but with the proposed mitigation, this will reduce to neutral by year 10.

In conclusion, the TVIA demonstrates that the proposed two-storey upward extension will have no significant adverse impacts on the townscape or visual amenity of the surrounding area. The design has been carefully considered to ensure that it integrates well with the existing urban fabric, and any short-term adverse effects will be mitigated over time through landscaping and the use of appropriate materials.

Response to Reason 3: Car-Free Development and Parking Stress

The Council's third reason for refusal relates to the failure to secure a legal agreement to ensure the development is car-free, which would likely exacerbate parking stress in the area. The officer's report refers to policies T1 and T2 of the Camden Local Plan, which prioritise walking, cycling, and public transport.

Appellant's Response:

The Design and Access Statement explicitly states that the Appellant is prepared to enter into a Section 106 legal agreement to ensure the development is car-free. The refusal based on the absence of a legal agreement is disproportionate, as this issue could have been resolved through a condition requiring the completion of a Section 106 agreement.

The proposed development includes sufficient cycle parking spaces, as outlined in the Planning, Design and Access Statement, with six spaces (exceeding the required five). The omission of precise details on the plans could have been resolved via condition.

The site is located in a highly sustainable area with excellent public transport links, including several Underground, Overground, and bus routes. The Council's own policies support car-

free developments in such locations, and there is no justifiable reason to believe this development would significantly exacerbate parking stress.

Conclusion

In conclusion, the refusal of prior approval was not justified based on the evidence provided. The proposal meets the GPDO's permitted development requirements, subject to minor amendments. The design is in keeping with the local context, and the development is fully aligned with Camden's policies promoting sustainable, car-free development. The Appellant respectfully requests that the Planning Inspectorate allows this appeal and grants prior approval for the development.