

Date: **2/12/2024**
Your ref: **APP/X5210/W/24/3353060**
Our ref: **2024/3048/P**
Contact: Brendan Versluys
Direct line: 020 7974 3202
Email: Brendan.Versluys@camden.gov.uk

Planning Solutions Team
Regeneration and planning
Culture & environment directorate

London Borough of Camden

Town Hall

Argyle Street

London

WC1H 8EQ

The Planning Inspectorate
3/B Eagle Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Michael Joyce

Appeal by Mr Simon Chaing.

Site: Kings Court, 523 Finchley Road, London, NW3 7BP.

This presents the council's statement regarding the above appeal against the refusal of prior approval dated 9th September 2024 (Ref: 2024/3048/P) for; Erection of a two storey upward extension, to create 3 x residential units.

The following is to be read in conjunction with the officer delegated report. This sets out the history of relevant appeal decisions taken on board in deciding to refuse prior approval.

1.0 Summary

The Council's case is set out in detail in the attached Officer's Delegated Report, and it will be relied on as the principal Statement of Case. 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 also take into account the following information and comments before deciding the appeal.

Site and designations

1.1 The site accommodates a five-storey block fronting Finchley Road on the South west side, comprised of ten existing residential units.

1.2 The property is not listed and is not within a conservation area.

History

1.3 Prior approval was refused on 28 February 2023 for the reasons below:

- 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.*

1.4 Prior approval (ref. 2023/2262/P) for '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 GDPO', being a similar proposal to that under 2024/3048/P (subject to this appeal) was also refused on 17th July 2023.

1.5 The Council's case for this current appeal is set out in detail in the attached Officer's Report, and it will be relied on as the principal Statement of Case. The Officer's 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.

2.0 Status of Policies and Guidance

2.1 In determining the above mentioned applications, the London Borough of Camden has had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case. The full text of the relevant policies was sent with the questionnaire documents.

2.2 There is no conflict between the council's policies and the NPPF in relation to these appeals.

2.3 The council's policies seek to ensure that new development is acceptable in terms of design and visual amenity both within and outside conservation areas, street clutter, pedestrian flow and highway safety and crime prevention.

2.4 The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on the 3 July 2017 and along with the London Plan 2021, is the basis for planning decisions and future development in this part of the borough.

2.5 The council has published a new Draft Camden Local Plan (incorporating Site Allocations) for consultation (DCLP). The consultation closed on 13 March 2024. The DCLP is a material consideration in the determination of planning applications but has limited weight at this stage. The weight that can be given to it will increase as it progresses towards adoption (anticipated 2026). There are no material changes in the draft plan relevant to this appeal.

2.6 The most relevant Local Plan policies as they relate to the reasons for refusal are:

A1 – Managing the impact of development
D1 – Design

2.7 The Council also refers to supporting guidance documents. The Camden Planning Guidance (CPG) was adopted in 2021 following the adoption of the Camden Local Plan in 2017. There have been no changes to the relevant policies since the application was refused. There have been no relevant changes to the National Planning Policy Framework since the decision was made.

3. Comments on grounds of appeal

3.1 The appellant's statement is set out in 3 main points in response to the three reasons for refusals and these are addressed below:

1. Non-compliance with Nationally Described Space Standards

The appellant considers that 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.

The appellant considers 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.

Overall, the appellant considers the discrepancies with the NDSS requirements 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 point 1:

The various non-compliances with the NDSS Technical Housing Standards in relation to the affected bedrooms, are not limited to small discrepancies only, and the non-compliances proposed would materially affect the usability of these bedrooms and the quality of life afforded to occupants of the flats.

The affected bedrooms would have an unreasonably narrow width in contravention of the clear intent of the Technical Housing Standards. The functionality of these rooms would be compromised through the amount of effective useable space being reduced to an unacceptable threshold. The nature of the non-compliances are not acceptable for a new build development via a roof extension and there are no attenuating constraints from development within the existing building footprint, for example; works to convert an existing non-residential property to residential use, from providing NDSS compliant bedrooms in an alternative scheme.

2. External Appearance and Impact on Character

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 aluminium windows, would be in-keeping with the existing structure and the proposed development

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.

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 point 2:

The Council's design policies are aimed at achieving the highest standard of design in all developments. The following considerations contained within policy D1 are relevant to the application: development should respect local context and character; comprise details and materials that are of high quality and complement the local character; and respond to natural features.

The reporting Planning Officer respectfully disagrees with the conclusions of the applicant's TVIA. The acceptability of the principle of a two storey extension at the site, as enabled by Class A to Part 20 of Schedule 2 'Construction of New Dwellinghouses' of the GDPO, is acknowledged. It is also possible an alternative scheme for a two storey extension could be designed in such a way that had an acceptable external appearance.

However, the selected design of this proposed two storey extension would result in an extremely dominant addition to the existing building inappropriate in bulk and design giving the building a top-heavy appearance at odds with the host building and general area.

The massing of the proposal is overly complex, with multiple junctions and changes between floors, which undermines the visual appearance of the building as a whole.

The facades of the extension do not provide a high-quality architectural response, with irregular window sizes which do not take reference from the existing building.

The proposed material in anthracite would increase the impact of the additional massing, creating a very top-heavy extension. The additional height will result in two large flank-walls to the east and west of the property, in a very dark-tone material oversailing the surrounding buildings and would be visible from Finchley Road. There is not sufficient information to suggest whether the proposed materials are appropriate in terms of type and tone to sit with the existing building and surrounding context.

The proposed extension fails to consider the surrounding context of existing built forms. It would create an incongruous skyline which is not considered acceptable in this location.

3. Car-Free Development and Parking Stress

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.

Response to point 3:

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.

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".

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.

The Council's solicitor is drafting a S106 agreement for the appellants agreement should the inspector be minded to allow the appeal. PINs will be updated on progress by final comment stage, 23rd December.

4. Comments on grounds of appeal

- 4.1 Based on the information set out above and having taken account of all the additional evidence and arguments made, it is considered that the proposal remains unacceptable for reasons set out within the original decision notice. The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns.

5. Suggested conditions should the appeal be allowed.

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: 01; 02; 03; 04; 05; 06; 07

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 policy D1 and D2 of the London Borough of Camden Local Plan 2017.

4. Before the relevant part of the work is begun, detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority:
 - a) Details including sections at 1:10 of all windows (including jambs, head and cill), ventilation grills, external doors and gates;
 - b) Manufacturer's specification details of all facing materials (to be submitted to the Local Planning Authority) and samples of those materials (to be provided on site).

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

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

5. Before the development commences, details of secure and covered cycle storage area for 6 cycles shall be submitted to and approved by the local planning authority. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy T1 of the London Borough of Camden Local Plan 2017.

6. The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35 dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

Reason: To ensure that the amenity of occupiers of the development site is not adversely affected by external noise in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017

7. Prior to commencement of development in line with the drainage hierarchy details of a sustainable urban drainage system shall be submitted to and approved in writing by the local planning authority. The system shall seek wherever possible to reduce surface water runoff with an aim of achieving a greenfield run-off rate where feasible. The agreed system shall be implemented as part of the development and thereafter retained and maintained.

Reason: To reduce the rate of surface water run-off from the buildings and limit the impact on the storm-water drainage system in accordance with Policies CC1, CC2, CC3 of the London Borough of Camden Local Plan 2017.

If any further clarification of the appeal submissions is required please do not hesitate to contact Brendan Versluys on the above direct dial number or email address.

Yours sincerely,

Brendan Versluys
Planning Officer