

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b> 10/09/2024			
		N/A		<b>Consultation Expiry Date:</b> 19/08/2024			
<b>Officer</b>			<b>Application Number(s)</b>				
Brendan Versluys			2024/3048/P				
<b>Application Address</b>			<b>Drawing Numbers</b>				
Kings Court 523 Finchley Road London NW3 7BP			See decision notice				
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>				
<b>Proposal(s)</b>							
Erection of a two storey upward extension, to create 3 x residential units.							
<b>Recommendation(s):</b>		Prior Approval Required - Approval Refused					
<b>Application Type:</b>		GPDO Prior Approval Part 20, Class A - dwellings on blocks of flats					
<b>Conditions or Reasons for Refusal:</b>		Refer to Draft Decision Notice					
<b>Informatives:</b>							
<b>Consultations</b>							
<b>Adjoining Occupiers:</b>		<b>No. notified</b>	0	<b>No. of responses</b>	12	<b>No. of objections</b>	12
<b>Summary of consultation responses:</b>		Site notice displayed 26/07/2024 to 19/08/2024					
		<u>Twelves objections</u> were received and can be summarised as follows:					
		<u>Design/character</u>					
		<ul style="list-style-type: none"> <li>The extension will have a detrimental impact on the surrounding visual character of the area. When viewed from the opposite side of Finchley Road, the extension would create an incongruous skyline with a design that does not fit with the aesthetics of the adjacent buildings.</li> <li>It is impossible to make a 2-storey extension on this building and at this part of Finchley Road not look totally out of character, out of proportion and destroy the visual harmony of the surroundings in comparison to the adjacent buildings and backdrop</li> </ul>					
		<u>Amenity:</u>					
		<ul style="list-style-type: none"> <li>The upwards extension would lead to a loss of light and privacy for neighbouring properties.</li> </ul>					

Waste/recycling:

- The application material does not address waste and recycling from the proposed new dwellings. The existing waste management facilities are already inadequate.

Transport:

- The application material has insufficient information with regard to cycle parking.
- The lack of on-site parking will increase congestion, despite a car-free agreement being offered.

Other:

- The proposal prioritizes the freeholder's financial gain over leaseholders' interests. The freeholder's risk is minimal compared to the potential negative impact on leaseholders. This development threatens the property's value and integrity.
- Concerns regarding who will pay for any damages to the property incurred through the building works.
- The application is not supported by any structural information to show that the building can accommodate the upwards extension.

Officer's response:

*Design and amenity effects, noise, transportation and associated construction effects have been assessed in sections 5 – 15 of this report, as relevant to the conditions for Class AA development under the GDPO 2015.*

*Noise amenity effects, structural effects, waste and recycling effects, have not been assessed within this report, as these are effects are not outlined within the conditions for Class AA development.*

## Site Description

The host building is a five-storey block fronting Finchley Road on the South west side, comprised of ten existing residential units.

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.

## Relevant History

### Site History:

**2006/5903/P** - Demolition of existing building and outbuildings and erection of a 5 storey building comprising 11 flats (1 x 1bed, 7 x 2-bed and 3 x 3-bed) fronting onto Finchley Road and a 2 storey detached dwelling house to the rear of the site and provision of 10 car parking spaces and 16 cycle spaces accessed via Parsifal Road. **Granted subject to S106 03/04/2007.**

**2020/3511/P** - Erection of an additional storey to facilitate to 2 x self-contained residential flats above a detached block of flats. **Granted subject to S106 15/01/2021.**

**2022/0138/P** - Erection of an additional storey to facilitate to 2 x self-contained residential flats above a detached block of flats. **Granted subject to S106 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 GDPO. **Prior approval Refused 17/07/2023**

## Relevant Policies

### National Planning Policy Framework 2023

### The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020

### The London Plan 2021

### Camden Local Plan 2017

Policy A1 Managing the impact of development

Policy D1 Design

### Camden Planning Guidance (CPG)

CPG Design (January 2021)

CPG Amenity (January 2021)

CPG Home Improvements (January 2021)

CPG Transport (January 2021)

### Fortune Green and West Hampstead Neighbourhood Plan

Policies: Policy 1: Housing, Policy 2: Design & Character

## Assessment

### 3. Proposal

- 3.1. The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 came into force on 31st August 2020 and introduced Class A to Part 20 of Schedule 2 'Construction of New Dwellinghouses', which allows for development consisting of works for the construction of up to two additional storeys of new residential units immediately above the topmost storey on detached buildings.
- 3.2. Prior approval is sought for the erection of new dwellinghouses on a detached block of flats. As per Schedule 2, Part 20 Class A of the GPDO as amended.
- 3.3. In this case, the proposal involves the erection of two additional storeys with a total of three new dwellings; 2 x two bedroom flats and 1 x one bedroom flat.

### 4. Assessment of proposals

- 4.1. Prior approval is required for this type of development as it includes the enlargement of dwelling houses consisting of the construction of two additional storeys, under condition A.2 (3) (a).
- 4.2. The proposal does qualify for a prior approval under class A part 20 and would therefore need to comply with a number of conditions listed within sub-paragraph A.2 [(a)-(h)] and a subsequent condition in sub-paragraph AA.2 relating to the need for the developer to apply to the local planning authority for prior approval as to:
  - (a) transport and highways impacts of the development;
  - (b) air traffic and defence asset impacts of the development;

- (c) contamination risks in relation to the building;
- (d) flooding risks in relation to the building;
- (e) the external appearance of the building, including:
  - (i) the design and architectural features of –
    - (aa) the principal elevation; and
    - (bb) any side elevation that fronts a highway; and
  - (ii) the impact of any works under sub-paragraph (1)(c) or (d) of Class AA;
- (f) The provision of adequate natural light in all habitable rooms of the new dwellinghouses
- (g) Impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light;
- (h) Impacts of noise from any commercial premises on the intended occupiers of the new dwelling houses;
- (i) Impacts of the introduction of, or an increase in, a residential use of premises in the area on the carrying on of any trade, business or other use of land in the area;
- (j) Whether, because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012 issued by the Secretary of State,
- (k) Where the existing building is 18 metres or more in height, the fire safety of the external wall construction of the existing building
- (l) Where the development meets the fire risk condition (see paragraph C(3) of this Part), the fire safety impacts on the intended occupants of the building and the provisions of paragraph B (prior approval) of this Part apply in relation to that application.

GPDO requirements separate to prior approval:

4.3. Article 3(9A) of the GPDO states:

*“(9A) Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—*

*(a) where the gross internal floor area is less than 37 square metres in size; or*  
*(b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015(1).*

*(9B) The reference in paragraph (9A) to the nationally described space standard is to that standard read together with the notes dated 19th May 2016 which apply to it.”*

4.4. All the units proposed meet the GIA floorspace requirements set out in Table 1 of the Standards. Paragraph 10 of the Standards also sets out additional requirements, including room widths. Paragraph 7 of the standard clarifies that room widths are integral to the standard and cannot be removed from it. Requirement 10 (c) requires that to provide one bedspace, a single bedroom must be 2.15m wide. Requirement 10 (h) clarifies that built-in wardrobes should not reduce the effective width of a room.

4.5. The proposed one-bedroom unit at 5<sup>th</sup> floor has a 7.5m<sup>2</sup> bedroom with a minimum width of approximately 0.85m. Approximately 6.7m<sup>2</sup> of the bedroom is able to accommodate a minimum dimension of 2.15m, which is less than the minimum 7.5m<sup>2</sup> floor area for a single bedroom. Similarly, a small portion of the single (7.5m<sup>2</sup>) bedroom of the fourth floor two bedroom unit has a dimension of approximately 0.85m (less than the minimum dimension of 2.15m), and the single (7.5m<sup>2</sup>) 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). The proposed floor plans show these bedrooms as having an unreasonably narrow width in contravention of the clear intent of the Technical Housing Standards. As such, even if prior approval were granted, the units shown on the plans would not benefit from permission under the Order by virtue of Article 3(9A).

4.6. The applicant has provided relevant details of the proposed extension as per the conditions set out in paragraph A.2-(1).

4.7. The necessary public consultations have taken place in accordance with the requirements of paragraph B. 11 & 12.

Matters for Prior Approval:

## **5. Transport and highways**

- 5.1. Policy T2 requires all new residential developments in the borough to be car-free. Parking is only considered for new residential developments where it can be demonstrated that the parking to be provided is essential to the use or operation of the development (e.g. disabled parking). It should be noted that Policy T2 is wide ranging and is not merely about addressing parking stress or traffic congestion. It is more specifically aimed at improving health and wellbeing, encouraging and promoting active lifestyles, encouraging and promoting trips by sustainable modes of transport (walking, cycling and public transport), and addressing problems associated with poor air quality in the borough. Thus, car-free housing is required in the borough, regardless of any parking stress that may or may not locally exist.
- 5.2. Policy T1 requires cycle parking facilities to be provided in accordance with the London Plan.
- 5.3. No new car parking spaces for the 3 new flats are proposed. All 3 flats would be secured as on-street parking permit free by means of a Section 106 Agreement. This would prevent any future occupiers from adding to existing on-street parking pressures, traffic congestion and air pollution, whilst also encouraging the use of more sustainable modes of transport such as walking, cycling and public transport.
- 5.4. The London Plan cycle parking standards are for 1 space per 1 bedroom 1 person flat and 2 spaces per 2 bedroom flats, which gives a requirement for 5 cycle parking spaces for this development.
- 5.5. It is noted the applicant has provided some limited details of cycle storage to meet requirement of local plan policy T1. The Design and Access Statement outlines that 3 x Sheffield style cycle stands (to accommodate 6 x bicycles) are proposed at the rear of the site, although the exact location of the cycle stands is not annotated on the plans nor is it clear whether the cycle stands would be located in a secure/covered location. Further details could be secured by condition if prior approval were to be granted.

## **6. Air Traffic and Defence**

- 6.1. The applicant confirms the site is not within proximity to an aerodrome, and it is also not within an air safeguarding area. The site is also not near to any assets belonging to, and areas safeguarded by, the Ministry of Defence.

## **7. Contamination Risks**

- 7.1. The applicant confirms that the site is not at risk of contamination and the upward extension does not involve any ground works. Therefore, the proposals will not be affected by any existing contamination issues.

## **8. Flood Risk**

8.1. The application site is not located within a mapped Flood Risk Zone. In addition, the proposed development is located on the top storey of an existing building and therefore the impact on flooding would be minimal.

## **9. External Appearance**

- 9.1. 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.
- 9.2. The Council acknowledges the extant permission at the host site for a single storey upwards extension. This is an appropriate scale and proportion for the host building, surrounding properties, and the area.
- 9.3. In contrast, the proposed two storey extension is an extremely dominant addition to the existing building, and inappropriate in bulk and design giving the building a top-heavy appearance at odds with the host building and general area.
- 9.4. 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.
- 9.5. 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.
- 9.6. 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.
- 9.7. 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.
- 9.8. The overall design of the two storey extension is not considered acceptable. It would give an unbalanced appearance to the host building and would have an unacceptable impact on the street-scene and the wider neighbourhood. As such, the external appearance of the proposed building is unacceptable.

## **10. Adequate Natural Light in Habitable Rooms**

- 10.1. The applicant has submitted a Daylight and Sunlight Assessment report, which determine the daylight and sunlight levels which will be available within the proposed dwellings. The report includes sunlight and daylight calculations which have been undertaken in accordance with the Building Research Establishment Report 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice' 3rd Edition, 2022 (BRE).
- 10.2. The report confirms all habitable rooms of the proposed flats will meet the daylight target values recommended in the BRE guidance.
- 10.3. With regard to sunlight, the report confirms of the 8 rooms assessed for sunlight exposure, 4 (50%) will meet the target values recommended in the BRE guide. Each of the

principal living room areas will meet the targets and receive at least 1.5 of sunlight on 21 March.

- 10.4. Of the 4 rooms that fall short of the targets, 2 are bedrooms, which have a lesser need for sunlight as stated within the guidance. One of the bedrooms is also very large (18m<sup>2</sup>) and as such the depth of this oversized bedroom would make it difficult to meet sunlight targets. The fourth floor living area, despite having a large area of glazing, is oversailed by a roof terrace, which similarly makes it difficult to achieve sunlight targets. The fifth floor living area is north east facing. The BRE guidelines recognises that sunlight availability may not be achievable in all units and the aim is to minimise the number of dwellings whose living rooms face solely north.
- 10.5. The approach taken in the design of the two additional floors has minimised the number of north facing rooms. It is acknowledged that due to the orientation of the site and the constraint of utilising the existing building core, which limits the number of floor layouts possible for the proposed two new floors, it would be difficult to provide an alternative scheme for a similar number of units which entirely avoided north facing rooms. As the number of rooms which have shortfalls in sunlight are limited to an acceptable proportion of the total number of proposed habitable rooms and noting that all assessed rooms would achieve adequate daylight, with the indicated shortfalls to the living areas being relatively modest, the shortfall in sunlight to the affected rooms is considered acceptable in the context of this application.
- 10.6. It is therefore considered the proposed new units would have an adequate provision of natural light in all habitable rooms.

## **11. Amenity of Existing Building and Neighbouring Premises**

- 11.1. Policy A1 seeks to protect the quality of life of occupiers and neighbours by only granting to development that would not harm the amenity of residents. This includes factors such as privacy, outlook, implications to natural light, artificial light spill, odour and fumes as well as impacts caused from the construction phase of development.

### Daylight and sunlight

- 11.2. Paragraph 125 of the NPPF supports making efficient use of land and says that authorities should take a flexible approach in applying policies or guidance relating to daylight/sunlight where they would otherwise inhibit making efficient use of a site, as long as the resulting scheme would provide acceptable living standards.
- 11.3. A Daylight and Sunlight Report has been submitted which details impacts on sunlight and daylight amenity that may arise through the proposed two storeys extension, on surrounding properties.
- 11.4. The methodology and criteria used for the assessment is based on the approach set out by BRE guidance. The report makes use of several standards in its assessment of surrounding buildings which are described in the BRE guidance, including Vertical Sky Component (VSC), Annual Probable Sunlight Hour (APSH) and Daylight Distribution.
- 11.5. In relation to 521 Finchley Road and VSC, the kitchen window (W4) at third floor has an existing VSC of 9.49% which is already substantially lower than BRE guidance minimum VSC of 27%. As the kitchen is very small (less than 6m<sup>2</sup>) and the actual reduction in VSC to this window is 3 percentage points, with the main living area retaining acceptable VSC, the VSC reduction to the kitchen window is considered acceptable. Similarly, the amount of daylight to this kitchen window would reduce from 50% to 22%. The identical kitchen window on the second floor below has daylight results of 0% in the existing situation. This demonstrates that

these modest kitchens were not designed to be reliant on daylight. Given the small size of the kitchen and the living room retaining acceptable daylight, the daylight reduction to this kitchen window is considered acceptable.

- 11.6. In relation to 525 Finchley Road and VSC, the bedroom window (W4) at the second floor has an existing VSC of 25.03% which would be reduced to 12.92%. While the reductions are in excess of the recommended guidelines, it must be noted that the existing VSC levels to the corresponding window on the floor below (W6) is less than 5%, thereby showing the tendency towards reduced levels of light on this elevation. Moreover, bedrooms are generally considered by the BRE guidelines to be less habitable rooms and therefore are less sensitive in daylight terms as they are typically occupied at night.
- 11.7. With regard to daylight distribution, seven out of nine rooms considered will fully comply with their targets. One of the two rooms that fall short of their recommended targets, the extent of non-compliance is generally acceptable, achieving a reduction ratio of 0.79 instead of 0.80. The other room is a second floor bedroom R4 which will see the daylight distribution coverage reduced from 98% to 66%. While outside the guidelines, a DD level of over 50% could be considered reasonable within an urban environment. Additionally, bedrooms are generally considered less sensitive in daylight terms than the main living rooms, as described above.
- 11.8. Regarding sunlight, the assessment shows that nine out of ten windows considered will fully comply with the recommended target values for annual sunlight and all will comply with the winter targets. The one window that falls short is located within the second floor bedroom and achieves a residual APSH values of 23%, only 2% below the recommended targets. This therefore retains a high level of sunlight for a built-up area. Furthermore, as referred to above, bedrooms are less important than living rooms in sunlight terms.

#### Overlooking/visual privacy

- 11.9. The proposed three new apartments would provide new sources of outlook at height.
- 11.10. However, overlooking and visual privacy effects would be acceptable when taking into the context of the existing building which already accommodates residential use and enables outlook towards adjacent properties at a reasonable distance, as well as intervening existing vegetation which would limit direct views into adjacent properties to the rear. The extension does not accommodate any glazing on the side elevations, as such no direct views are provided into adjoining properties on Finchley Road. Notwithstanding this, the height of the upper floors when considered in tandem with the relatively substantial separation distance from habitable rooms of adjacent dwellings, is considered sufficient such that any overlooking and visual privacy effects would be acceptable.

### **12. Impact Upon a Protected View**

- 12.1. The applicant has confirmed that the site does not fall within nor near to a protect view identified in the Directions Relating to Protected Vistas dated 15th March 2012 issued by the Secretary of State.

### **13. Fire Safety**

- 13.1. The existing building is not 18m or more in height and therefore Fire Safety is not a matter of Prior Approval consideration.



## **14. Summary and Conclusion:**

- 14.1. Although the applicant has met the criteria required with regards to submission of details, the negative visual appearance of the proposal, and due to poor design, is not considered acceptable. In any event, several of the bedrooms in the units are too narrow and do not meet the national space standards so the units would not be permitted development even if the matters for prior approval were acceptable. The scheme is considered acceptable in terms of residential amenity effects to adjoining occupiers.

## **15. Recommendations**

### **a) Refuse prior approval for the following reason-**

- 15.1. 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).
- 15.2. 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).
- 15.3. 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.

Application ref: 2024/3048/P  
Contact: Brendan Versluys  
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Date: 9 September 2024

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Planning by Design  
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W1W 5PF

Dear Sir/Madam

## DECISION

Town and Country Planning Act 1990 (as amended)  
**Prior Approval Required - Approval Refused**

Address:  
**Kings Court**  
**523 Finchley Road**  
**London**  
**NW3 7BP**

Proposal: Erection of a two storey upward extension, to create 3 x residential units.

Drawing Nos: Plans: 01; 02; 03; 04; 05; 06; 07

Supporting information: 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; Townscape and Visual Impact Statement prepared by Brown Fisher Environmental, May 2024, ref. 246851TVIA

The Council has considered your application for prior approval of siting and appearance in respect of the telecommunications equipment described above determines that prior approval is required and hereby **refuses approval** for the following reasons.

### Reason(s) for Objection

- 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.

Informative(s):

- 1 If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. Further details are on GOV.UK.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2023.

You can find advice in regard to your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully



Daniel Pope  
Chief Planning Officer