



## Appeal Decision

Site visit made on 7 January 2025

**by David Wyborn BSc(Hons) MPhil MRTPI**

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

**Decision date: 11 February 2025**

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**Appeal Ref: APP/X5210/W/24/3353374**

**154 Royal College Street, Camden, London NW1 0TA**

- 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 Mrs Miriam Leah Blum of Ashblue investments Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref is 2024/1541/P.
  - The development proposed is the change of use of ground floor (and basement) commercial unit to residential, erection of a ground floor rear extension, mansard roof extension and basement excavation including the insertion of a rear lightwell, all to enable use as two flats.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mrs Miriam Leah Blum of Ashblue investments Ltd against the Council of the London Borough of Camden. This application is the subject of a separate decision.

### Preliminary Matters

3. The third reason for refusal concerned the absence of a satisfactory Basement Impact Assessment (BIA) to demonstrate that the excavation works to enlarge the basement area would not cause harm. Further information was submitted at the appeal stage, with the appellant seeking to respond to the Council's statement. While this was new evidence provided during a later part of the appeal process, the Council was, in any case, examining this further information.
4. The Council, subsequently, agreed that the revised and additional basement information was satisfactory and had addressed its concerns with respect to safeguarding structural, ground and water conditions. I accepted the evidence on this basis, and I have found no reason to disagree that the third reason for refusal has been addressed.
5. By way of background, in terms of the uses in the building, the planning history shows that a certificate of lawful use and development was granted to confirm that the basement of 154 Royal College Street is a separate studio flat (Ref 2018/0674/P granted on 9 August 2018). The basement studio flat is accessed off the entrance corridor that also leads to the flat on the first and second floor. The commercial space is accessed via a separate front door, albeit that this commercial space also has an internal side door onto the

corridor that serves the two residential units. In the interests of clarity, the two existing residential units, therefore, can operate independently from the commercial floorspace on the ground floor. I looked at all these spaces at my site visit.

6. The first reason for refusal refers to the loss of commercial use on the ground and basement floors and which, in the view of the Council, is not justified. However, as explained above, and notwithstanding the description of the development and the initial plans<sup>1</sup>, the basement has a lawful use as a studio flat. Consequently, in terms of the first main issue, I will consider that the change of use from commercial to residential is only required in respect of the ground floor.

### **Main Issues**

7. The main issues are:
  - whether or not the loss of the commercial floorspace on the ground floor would be justified having regard to the policies of the development plan,
  - the effect of the proposed ground floor change of use to residential from commercial, and the creation of the proposed front lightwell and railings, on the character and appearance of the host building and area, having regard to the location within the Camden Broadway Conservation Area, and
  - whether or not the scheme would, or needs to, make suitable provision for car-free housing.

### **Reasons**

#### *Loss of commercial floorspace*

8. Policy E2 of the Camden Local Plan 2017 (the Local Plan) provides the policy requirements when considering employment premises and sites. The policy seeks to protect premises or sites that are suitable for continued business use. The policy goes on to explain that development of business premises and sites will be resisted for non-business use unless it is demonstrated to the Council's satisfaction that (a) the site or building is no longer suitable for its existing business use, and (b) that the possibility of retaining, reusing or redeveloping the site or building for similar or alternative type and size of business use has been fully explored over an appropriate period of time.
9. The supporting text explains that having a range of sites and premises across the Borough to suit the different needs of businesses for space, location and accessibility is vital to maintaining and developing Camden's successful economy.
10. Paragraph 5.37 of the Local Plan lists some of the factors that should be considered for proposals which involve the loss of business use to a non-business use. This includes the suitability of the location for any business use, whether the premises are in a reasonable condition to allow the use to continue, the range of unit sizes, particularly suitability for small businesses, and whether the business use is well related to nearby land uses.
11. In addition to these considerations, paragraph 5.39 details that where a change of use to a non-business use is proposed, the applicant must

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<sup>1</sup> The appellant has explained why this was initially shown, in the absence of the knowledge of the Certificate.

demonstrate to the Council's satisfaction that there is no realistic prospect of demand to use the site for an employment use. The text explains that applicants must submit evidence of a thorough marketing exercise, sustained over at least two years.

12. In terms of the appeal property, and specifically the ground floor commercial element, the appellant, as part of the submissions, has included a letter from a property company. This letter explains that the appeal property has been available on the rental market for a long period of time, however, there has been very little interest in it due to the location and condition of the shop. It is further explained that the location on Royal College Street is no longer a commercial trading area in Camden. The case is also made that the condition of the unit means that the money needed to bring the unit up to a trading standard is not feasible.
13. The appellant's submissions also extensively quote from the Planning Report for the adjoining commercial property (156 Royal College Street) when that building was permitted to be converted to residential from commercial. That Report explains that due to the development of the area over time Nos. 154 and 156 Royal College Street have become isolated from the north of the centre by the conversion of the former tool hire shop at 158-164 Royal College Street which was implemented 5 years ago and is a block of residential flats. The Planning Report also says that given the site's peripheral location, it is not considered to be essential to the character of the area, and nor is it likely to encourage more visitors as the main convenience outlets are mainly to the north of the site.
14. The ground floor commercial space at No 154 is accessed via a front door and this leads to a level area, with at the back corner, an internal and separate toilet cubicle. The rear back wall has a reasonable sized window that provides light to the back section of the commercial space. Internally the accommodation has a fairly high ceiling, and together with the large, front and rear windows, the unit could create a fairly useable, independent and adaptable space. I note the comments from the property agent regarding the condition of the unit, however, the submissions do not include any detailed costings or survey to provide a comprehensive basis for me to believe that the space could not be reused with some modest refurbishments.
15. The letter from the property company is not in the form of a marketing report and the information does not demonstrate that a thorough marketing exercise has taken place. The letter says the property has been available but that may not be the same as being actively marketed. I appreciate that the letter also indicates that there has been very little interest, nevertheless, this indicates that there has at least been some interest, but again this is not detailed. The information has, therefore, not been presented to adequately demonstrate and provide sufficient reassurance that the property has been marketed for a sustained period to see if a commercial user would wish to take on the unit.
16. In coming to this judgement, I have also had regard to the advice in the Camden Planning Guidance – Employment Sites and Business Premises (January 2021), especially the section on marketing and when a shorter period may be considered. However, the marketing evidence provided is not sufficient to demonstrate to my satisfaction that these reduced requirements have been met in terms of marketing this property and its circumstances.

17. Much is made of the planning situation at the adjoining property at No 156. However, that information confirmed that No 156 had been on the market with three agents for both sale and renting. Interest from occupiers was conveyed to those three estate agents and the summary of the Planning Report indicates how that interest was pursued, with ultimately no one interested in buying or renting the space. There was, therefore, it appears a marketing exercise undertaken with an associated analysis to provide confidence that the premises could not be taken forward in commercial use, at that time. That is not the case with the present commercial floorspace where the information does not meet the approach that could support the loss of commercial use so as to accord with Policy E2 of the Local Plan. Furthermore, the assessment of the marketing for No 156 was presented in September 2023 and that may or may not translate to the particular physical condition and circumstances at this adjoining property at the present time. Consequently, the need to market the property to meet the requirements of Policy E2 is still a relevant requirement.
18. In terms of the location in relation to other commercial premises, the site is located next to the approved residential development on the corner with Baynes Street. On the other side, No 156 was, at the time of my site visit, in the process of being, I assume, converted to entirely residential accommodation. Adjoining that development is the block of residential flats, Nos 158-164. Consequently, the appeal premises is the only commercial floorspace in this group and it lies somewhat distant from the centre of the main commercial activity in Camden Road. However, there is a row of commercial properties on this side of the road closer to Camden Road and some others on the opposite side of Royal College Street. There are also a couple of other commercial uses further south along Royal College Street dotted amongst the residential properties. Consequently, No 154 is not entirely detached from all other commercial premises in this general section of Royal College Street, as the street extends south from Camden Road. This part of the road is a peripheral commercial area (amongst residential properties) which typically can be found beyond a more intensive business area, but in its way could still make a worthwhile contribution to the economic wellbeing of an area.
19. I appreciate that the commercial space at No 154 has been empty for some time and the location may not suit businesses that require a high footfall or window shoppers. I have also had regard to the comments of the Council in its Planning Report for No 156. However, the evidence does not demonstrate why there could not be a range of businesses that are suited to such a more peripheral location that, perhaps, would trade by reputation or do not require a more central trading position. The type of businesses that could fulfil a Class E use is now quite wide. The space available on this ground floor appears to be of a size that may well suit a range of small business users and the size of unit is not a factor that in itself should dissuade uptake. I am, therefore, not satisfied, in the absence of a thorough marketing exercise, that this location is inherently unsuitable for business use and, in my judgement, the unit size and layout would appear able to support a small business.
20. Drawing these matters together, it has not been adequately demonstrated that the ground floor space is no longer suitable for business use, and the possibility of retaining and reusing the space for similar or alternative business use has not been satisfactorily explored over an appropriate period of time. In these key respects, the proposed loss of the ground floor business space

would not be policy compliant. I therefore conclude that the loss of the commercial floorspace on the ground floor has not been justified having regard to the policies of the development plan, in particular Policy E2 of the Local Plan.

### *Character and appearance*

21. The site is located within the Camden Broadway Conservation Area (the Conservation Area). The Conservation Area Appraisal<sup>2</sup> explains that the Conservation Area is a small area comprising a mix of commercial and residential properties, much of the layout which began in the 1820s. Within this section of Royal College Street, the heritage significance includes the three storey (plus basement) buildings in linear form, fronting the road often with railings, and their regular pattern of windows and architectural detailing.
22. No 154 is one of the three storey (plus basement) original buildings that has the typical pattern of fenestration on the upper floors and with elements that display the strong cohesive identity of the Conservation Area. The Conservation Area Appraisal identifies the building as making a positive contribution to the character and appearance of the area, and is listed as having an historic shopfront.
23. As the site falls within the Conservation Area, I am mindful of the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of any land or buildings in a conservation area.
24. In terms of the scheme, there are a variety of built elements to the proposal. These include the rear extension and the mansard roof additions, the latter now subject of a separate approval. The Council do not raise objection to these elements and I consider that they are acceptable additions that would not harm the heritage significance of the building and its contribution to the character and appearance of the Conservation Area.
25. Other elements include the provision of a lightwell and associated railings at the front to improve light and ventilation to the basement accommodation. The Council also consider that the proposed change of use of the ground floor from commercial to residential would not be in keeping with or appropriate to the historic character and appearance of the building in the Conservation Area.
26. In terms of the lightwell and railings, such features are not unusual in the street scene and have been considered acceptable as part of other schemes. For instance, they will form part of the frontage to the new building, next to the appeal site and adjoining Baynes Street, and have also been permitted as part of the change of use and works at No 156. Nos 158-164 have railings along the frontage of that building with Royal College Street. While the vast majority of the lightwells and railings form part of the frontage to residential properties, they are nevertheless a familiar feature of the Conservation Area.
27. Once the other developments have been completed, the appeal property would be the only building in this group, between Randolph Street and Baynes Street on this side of the road, that would not be fronted by railings. Given the prevalence of railings within the street, the generally positive contribution that they make to the character and appearance of the Conservation Area, and the surroundings in which the appeal property is likely to be associated, I am

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<sup>2</sup> Camden Broadway Conservation Area Appraisal and Management Strategy – Adopted 12 February 2009.

satisfied that the railings and related lightwell would preserve the heritage significance of No 154 as a positive building within this part of the Conservation Area.

28. The scheme also proposes a change to the shop window. This would involve the removal of the door to the commercial space which would leave a single entrance door. The shop door would be replaced by a window that would replicate the other parts of the shop window. Providing the works were undertaken with care, the resulting appearance would not look out of place and may provide a more balanced and traditional appearance to the frontage. These works would preserve the character and appearance of the Conservation Area, including taking into account that the changes would alter an historic shopfront.
29. In terms of the effect on the Conservation Area of the loss of the commercial use, the site lies in a generally mixed area of commercial and residential uses and this mix contributes to the character of the Conservation Area. However, in these visual and character terms, the proposed change in the balance of uses within this part of Royal College Street would be minor and would not be harmful because this section of the Conservation Area would still be experienced as having a reasonable mix of uses. Consequently, the loss of the commercial space would not adversely affect one of the features that contributes to the heritage significance of the Conservation Area.
30. In coming to these views on the effect of the scheme on the area, I have had regard to all the submissions from local residents and interested parties, including the comments on the history and importance of the building to the area.
31. In the light of the above analysis, I conclude that changes to the building, including the use, would not adversely affect the character and appearance of the area, and would preserve the character and appearance of the Conservation Area. As a consequence, in this respect the scheme would comply with Policy D2 of the Local Plan which requires that development within conservation areas preserves or, where possible, enhances the character and appearance of the area.

#### *Car-free housing*

32. Policy T2 of the Local Plan sets the policy approach to parking and car-free development across the Borough. This includes that the Council will not issue on-street parking permits in connection with new development. The supporting text explains that all new residential development in the Borough should be car-free. This approach is amplified in the Camden Planning Guidance – Transport (January 2021) which also refers to new residential development and the need for it to be car-free.
33. In this case, the reason for refusal refers to preventing future occupiers of the new flat from obtaining on-street car parking permits. However, at the present time, there are two units of residential accommodation on the site, the basement studio flat and the flat on the first and second floor. The scheme would extend the studio flat into the present commercial floor space on the ground floor, together with a rear extension. The upper floor flat would also be extended. However, while the extended floorspaces would provide relatively extensive additions, especially for the basement flat, there would still remain

two units of accommodation, as at present. Contrary to the reason for refusal, a new flat would not be created.

34. The works are the reuse of internal commercial space and extensions, rather than a redevelopment of the building as a whole. It is assumed that residents who could presently occupy the two flats within the building would have the ability to apply for residents' parking permits. In the circumstances where there are no additional or new units of residential accommodation, I am not satisfied by the evidence that the car-free development requirements of Policy T2 of the Local Plan should apply.
35. Furthermore, the Council has not sought to apply car-free principles to the upper floor flat and its extension, which despite the plans is likely to increase the number of bedrooms and resulting occupants. While the studio flat would be extended to a greater extent, the Council has not set out a convincing case to explain why it is adopting a different approach with the basement unit compared with the upper floor flat.
36. Taking all the information into account, and having regard to the intentions and wording of Policy T2 of the Local Plan, I am not satisfied that this basement unit of accommodation, that is proposed to be extended, should be required to be car-free with the removal of the ability for occupants to apply for a parking permit. In these circumstances, there would be no conflict with Policy T2 of the Local Plan and, therefore, no requirement for a planning agreement to require, amongst other restrictions, the prevention of occupiers of the extended accommodation from obtaining a car parking permit. Accordingly, there is also no conflict with Policies T1 and T3 of the Local Plan that include the need to prioritise walking, cycling and public transport.

### **Conclusion**

37. The scheme would help to ensure that the building was fully used, especially having regard to the situation that the commercial floorspace on the ground floor has been empty for some years. The basement studio flat would be extended and there would be improved and higher quality accommodation for future occupants. The upper floor flat would also be extended with more floorspace available. This would result in the provision of residential units of a size that are a high priority within the Borough.
38. Furthermore, the development would lead to economic and social benefits during construction and in subsequent occupation. This work would take place in a way that would not harm the character and appearance of the area. These are all positive aspects of the scheme. However, given that the works would not add any additional residential units of accommodation to help boost supply, I consider that the cumulative benefits of the development should afford limited weight.
39. On the other hand, the development plan seeks to protect premises that are suitable for continued business use and the case has not been demonstrated, in the terms required by Policy E2 of the Local Plan, that the ground floor space should be lost. The retention of such space, and only allowing alternative non-commercial use when the policy criteria are met, is an important component of the strategy of the Local Plan to maintain and develop Camden's economy. The lack of compliance with Policy E2 of the Local Plan is a significant matter that weighs to a substantial extent against the scheme. It

is such that because of this harm and related policy conflict that the scheme would conflict with the development plan when considered as a whole.

40. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
41. In conclusion, the benefits of the scheme merit limited weight and the harm and related policy conflict weigh to a substantial extent against the proposal. It follows that there are no considerations that outweigh the identified harm and related development plan conflict. I, therefore, conclude that the appeal should be dismissed.

*David Wyborn*

INSPECTOR