



---

## Appeal Decision

Site visit made on 5 February 2025

by **C Butcher BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 March 2025

---

**Appeal Ref: APP/X5210/W/24/3355892**

**1 Lymington Road, Camden, London NW6 1HX**

- 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 Quintet Investments Limited against the decision of the Council of the London Borough of Camden.
  - The application Ref is 2024/0531/P.
  - The development proposed is the erection of a single-storey garden house to the rear of 1 Lymington Road.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are: (i) whether the proposed development would conserve or enhance the character or appearance of the West End Green Conservation Area; and (ii) the effect of the proposed development on the living conditions of the occupiers of No. 1 Lymington Road, with particular regard to privacy, light and the size of private outdoor garden space.

### Reasons

#### *Conservation Area*

3. The appeal site is located within the West End Green Conservation Area. From the evidence before me, and from what I saw when I visited the site, the significance of the Conservation Area, in so far as it is relevant to this appeal, is derived from the value of the development of this part of London in the Victorian and Edwardian periods, and the architectural styles and tastes of the time. It has an aesthetic value due to the appearance of the buildings that comprise the Conservation Area. Indeed, Lymington Road itself is predominantly characterised by a linear development of large red brick dwellings which contribute significantly to the quality of the urban environment. Furthermore, the rear gardens of some of the houses on Lymington Road, West End Lane, Fawley Road and Crediton Hill form a large quadrant of green space, which while not visible from the public realm, also adds to the character of the area.
4. The proposed development would involve the construction of a single storey dwelling within the rear garden of No. 1. In this instance, the proposed dwelling would be much larger than a typical residential outbuilding, and the backland nature of the layout would clearly be incongruous and out of place in the vicinity.

Furthermore, the construction of a dwelling within the rear garden would disrupt and erode the quadrant of green space described above.

5. I note that the appellant has sought to provide several examples of similar developments in the surrounding area. However, these examples appear to either be small ancillary outbuildings, conversions of existing buildings, or historic developments that precede existing planning considerations. As such, none of them are directly comparable to the scheme before me.
6. Due to its position and design, it is perhaps unlikely that the proposed building would be visible from Lymington Road. However, a lack of visibility reduces the harm rather than removing it entirely. In my view, the harm caused as a result of the development would still be moderate in nature.
7. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The proposal would have a negative effect on the significance of a designated heritage asset and would result in 'less than substantial harm'. In these circumstances, the National Planning Policy Framework (the Framework) requires that this harm must be weighed against public benefits. Great weight must be given to a designated heritage asset's conservation and any harm to its significance requires clear and convincing justification.
8. In this instance, the development would provide one additional house which would add to local housing stock and provide some associated economic benefits. However, given the limited scale of the proposal, any such benefits would be limited. I therefore conclude that the public benefits do not outweigh the less than substantial harm I have identified. The proposed development would therefore fail to preserve or enhance the character or appearance of the Conservation Area and would result in harm to its significance. This would fail to satisfy the requirements of the Act and the relevant aspects of the Framework. It would also conflict with Policies D1, D2 and A3 of the Camden Local Plan 2017 (the LP), the relevant aspects of which seek to ensure that new development is well designed, that it preserves the character and appearance of designated heritage assets, and that valued green spaces, including gardens, are protected for their nature conservation and amenity value.

### *Living Conditions*

9. The existing garden space to the rear of the host dwelling is split between a private area for the use of the occupiers of Flat A, with the rest being used as communal space for the residents of the remaining flats. The communal area is quite large and provides a pleasant space for recreation.
10. Under the proposals, only a very small area of the garden would remain for communal purposes. It seems to me that this space would be wholly inadequate when taking account of the number of flats that comprise the host dwelling. The fact that the communal garden may have previously been overgrown and underused is not a sufficient reason to reduce its size so drastically. Indeed, there is no substantive evidence before me to suggest that occupiers of leasehold flats are unlikely to utilise well managed and maintained garden spaces.

11. With regards to sunlight and daylight, the appellant has provided an assessment of the effect of the proposed development on existing occupiers (T16 Design, October 2024). The assessment confirms that the rear facing windows of No. 1 would all receive adequate levels of daylight and sunlight following the construction of the proposed dwelling. Based on the methodology used, I have no reason to disagree with the assessment's conclusions. Indeed, I do not find that the lack of an NSL test invalidates the overall findings. As such there would be no harm in this regard.
12. I also find no harm in relation to privacy. The proposed dwelling would have sliding doors within its southern elevation. However, these doors would overlook the pathway rather than the rear windows of No. 1. An additional area of glass, which would be located alongside the front door, could be made obscure by a suitably worded condition. Furthermore, there is already potential for occupiers of the flats to use the shared pathway to access the communal space, and so some disturbance to the privacy of the occupiers in the rear facing flats is inevitable. Any additional effect on privacy, associated with the occupiers of the proposed dwelling using the shared pathway, would be negligible.
13. Nevertheless, due to the insufficient size of the proposed communal garden area, I find that the proposal would harm the living conditions of existing occupiers of No. 1. It would therefore conflict with LP Policy A1, which in part, seeks to preserve living conditions.

#### **Other Matters**

14. The lack of a planning obligation to secure the development as car-free was given as a further reason for refusal by the Council. It is clear that an obligation of this nature is required to conform with the relevant LP policies. I note that the appellant has provided a finalised unilateral undertaking to address this matter which prevents future occupiers of the proposed dwelling from gaining a residents parking permit. As such, this issue has been resolved.

#### **Conclusion**

15. The Council cannot currently demonstrate a 5-year supply of deliverable sites for housing and the current shortfall is noted as being substantial. I have no evidence before me to suggest that this position is likely to improve in the short-term.
16. The tilted balance is not invoked, however, because the Framework at Paragraph 11d(i) and footnote 7 protects both areas and assets of particular importance, which include designated heritage assets, and provides a strong reason to dismiss the appeal.
17. As such, the proposed development conflicts with the development plan when considered as a whole. There are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. The appeal is therefore dismissed.

*C Butcher*

INSPECTOR