

Date: 19/03/2025  
Your ref: APP/X5210/W/24/3357274  
Our ref: 2023/5407/P  
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The Planning Inspectorate  
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Bristol  
BS1 6PN

Dear Claire Vicary,

**Town and Country Planning Acts 1990 (as amended)**  
**Planning Appeal Statement (Authority)**  
**Appellant: Smart Garden Offices Ltd**  
**Site: Flat A, 23 Hampstead Lane, London, N6 4RT**

I write in connection with the above appeal against the Council's refusal to grant planning permission for the creation of a roof terrace with associated roof alterations and skylights.

The Council's case is set out primarily in the delegated officer's report (ref: 2023/5407/P) that has already been sent with the questionnaire and is to be relied on as the principal Statement of Case. Copies of relevant policies from the Camden Local Plan (adopted July 2017) and accompanying guidance were also sent with the appeal questionnaire.

In addition, Council would be grateful if the inspector would consider the contents of this letter which includes confirmation of the status of policy and guidance, comments on the Appellant's grounds of appeal and further matters that the Council respectfully requests be considered without prejudice if the Inspector is minded to grant permission.

## **1. Summary of the Case**

- 1.1. The appeal relates to a three storey plus basement terraced property located on the southern side of Hampstead Lane. The building has been sub-divided into flats and this appeal specifically relates to the lower ground floor flat.
- 1.2. The appeal site is located within the Highgate Village Conservation Area. The building is identified as a positive contributor to the area.
- 1.3. Planning permission was refused on 17<sup>th</sup> September 2024 for the creation of a rear outbuilding.
- 1.4. The aim of the proposed development is to provide a home office space for current and future occupiers.

1.5. The application was refused on the grounds that:

- The proposed outbuilding by reason of its siting, scale and design, would dominate the rear garden of the host property and detract from the open setting of neighboring gardens, failing to appear as a subordinate garden addition and detracting from the character and appearance of Hampstead Conservation area, contrary to Policies A1, D1 and D2 of the Camden Local Plan 2017 and policy DH1 of the Highgate Neighbourhood Plan 2018.
- The proposed development would fail to demonstrate that the existing trees on and off-site would be adequately protected, contrary to policy A3 of the London Borough of Camden Local Plan 2017.

1.6. The Council's case is largely set out in the officer's report, a copy of which was sent with the questionnaire. In addition to this information, I would ask the inspector to take into account the following comments.

## **2. Status of Policies and Guidance**

2.1. In determining the abovementioned application, the London Borough of Camden had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case.

2.2. The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on 3<sup>rd</sup> July 2017. The following policies in the Local Plan are considered to be relevant to the determination of the appeal:

- A1 Managing the impact of development
- D1 Design
- D2 Heritage

2.3 The Council also refers to supporting guidance in Camden Planning Guidance (CPG) documents. The CPG documents most relevant to the proposal are as follows: Design, Amenity, and Altering and extending your home. The Camden Planning Guidance documents were subject to public consultation and were approved by the Council as indicated.

- CPG Design (2021)

Section 2 – Design Excellence

Section 3 – Heritage

- Altering and extending your home (2019)

Section 2 – Design excellence for houses and flats

Section 3 – Extensions: rear and side

Section 5 – Gardens, garden buildings and biodiversity

- CPG Amenity (2021)

## Section 2 – Overlooking, privacy and outlook

- 2.4 The Highgate Neighbourhood Plan was adopted in 2017 and defines the special character of the conservation area and sets out the Council's approach for its preservation and enhancement.
- 2.5 The National Planning Policy Framework was published in April 2012 and revised in 2024. It states that proposed development should be refused if it conflicts with the local plan unless other material considerations indicate otherwise. There are no material differences between the Council's adopted policies and the NPPF in relation to this appeal. The full text of the relevant adopted policies was sent with the questionnaire documents.
- 2.6 Additionally, the Council has published a new Draft Camden Local Plan (incorporating Site Allocations) for consultation (DCLP). The DCLP is a material consideration and can be taken into account in the determination of planning applications which has limited weight at this stage. The weight that can be given to it will increase as it progresses towards adoption (anticipated 2026). It is not envisaged that there would be any material differences in relation to this appeal.
- 2.7 There are no material differences between the NPPF and the Council's adopted policies in relation to this appeal.

### **3 Comments on the appellant's grounds of appeal**

- 3.1 The appellant has put forward three grounds of appeal: the effect on the host property and the character of South Hampstead Conservation Area

#### Effect on the host property and the character of Hampstead Lane and the Conservation Area

- 3.2 The appellant refers to the proximity of three properties which feature existing developments which are "highly comparable to the roof terrace and railing proposals". The appellant goes on to argue that the council has failed to mention that this development would be the fourth appeal for a roof terrace on Aberdare Gardens.

#### **The council's response**

- 3.3 The appellant refers to an existing outbuilding in 25 Hampstead Lane which was granted under a certificate of lawfulness (2021/6130/P). However this development was lawful and did not require planning permission. Nonetheless the outbuilding at 25 Hampstead Lane is more appropriately placed in the rear of the amenity space producing less harm to the conservation area.
- 3.4 Regarding the allowed appeal at No. 95 Castlehaven Road (reference 2023/3379/P) the application is considered materially different from the appeal proposal. Castlehaven Road is 1.8 miles away within a different conservation area (Kelly Street Conservation area) with a proposal that is not related to an outbuilding, making for different site contexts and incomparable sites.

- 3.5 Regarding the appellants assertion of the design and material of the proposed outbuilding in relation to The Lawns (app ref: PE9800578R1), this application was determined in 1998 prior to the current Local Plan and CPG guidance. It is also 300 metres away and therefore having a different site context. It is the councils view that the proposed materials are unacceptable under conservation grounds and it would produce a level of contemporary features that are insubordinate to the host dwelling as required by the CPG.
- 3.6 The Council would maintain its position that the outbuilding is inappropriate in this location and would fail to preserve or enhance the character and appearance of the conservation area.

Impact of the proposed outbuilding on neighboring amenity

- 3.7 The appellant refers to the overall scale of the outbuilding at 85% of the host dwellings size.

**The council's response**

- 3.8 The appellant refers to the overall size of the outbuilding within the rear garden space being 85% of the host dwelling. The rear amenity space is approximately 42sqm, making the outbuilding occupy 33% of the amenity space, which is already divided into an "upper" and "lower" garden spaces, the proposed outbuilding would cover over 50% of this "upper garden" space" and produce a visually overbearing structure to neighbouring residents and impact on aid amenity.
- 3.9 The appellants refers to the proposed windows on the outbuilding, this is already covered within the delegated report.
- 3.10 The Council would maintain its position that the outbuilding creates an overabing impact to neighbouring amenity and privacy.

**Trees and Landscaping**

- 3.11 The appellant had not submitted an arboricultural report or arboricultural method statement as part of the proposal. The Council was not able to assess the impact of the development on the trees within the rear garden and thus a reason for refusal. The appellant has submitted an arboricultural survey as part of this appeal

**The council's response**

- 3.12 The appellant's arbouricultural information has been assessed by the councils Tree and Landscape Officer who has agreed that the method statement, tree protection plan and site monitoring schedule are considered sufficient to demonstrate that the trees retained will be adequately protected in accordance with BS5837:2012 and this would no longer be a reason for refusal.

### **3. Conclusion**

- 3.1. Based on the information set out above, and having taken account of all the additional evidence and arguments made, the proposal is considered contrary to the Council's adopted policies.
- 3.2. The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns. For these reasons the proposal fails to meet the requirements of policy and therefore the Inspector is respectfully requested to dismiss the appeal.

### **4. Conditions**

- 4.1. Should the inspector be minded to allow the appeal, it would be requested that conditions in Appendix A are attached the decision.

Should any further clarification or submissions be required, please do not hesitate to contact Blythe Smith by the direct dial telephone number or email address quoted in this letter.

Yours faithfully,

**Blythe Smith**

Planner  
Supporting Communities Directorate

### **Appendix A - Recommended Conditions**

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:

Design, Access and Heritage Statement; Tree Survey, Arboricultural Impact Assessment and Method Statement dated 18/11/2024; UL480E01A; UL480B01B; UL480P01B; UL480L01B

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 of the London Borough of Camden Local Plan 2017.

4. Prior to the occupation of the development hereby permitted, the side windows shown on plan number UL480E01A shall be fitted with obscure glass and the window shall be retained as such for the duration of the development.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with policy A1 of the Camden Local Plan 2017.

5. The outbuilding hereby approved shall only be used for incidental purposes to Flat A, 23 Hampstead Lane, London, N6 4RT and shall not be used as a separate residential dwelling or a business premises.

Reason: To safeguard the amenity of the residential use, adjoining premises, and the area generally in accordance with policies A1 and A4 of the Camden Local Plan 2017.

6. Prior to the commencement of works on site, tree protection measures shall be installed and working practices adopted in accordance with the document entitled " Tree Survey, Arboricultural Impact Assessment and Method Statement" dated 18<sup>th</sup> November 2024. All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with BS5837:2012 and with the approved protection details. The development shall be monitored by the project arboriculturalist in accordance with the approved report.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policies A2 and A3 of the Camden Local Plan.