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## Appeal Decision

Hearing held on 18 February 2025

Site visit made on 26 February 2025

by **M Woodward BA (Hons) PgDip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25<sup>th</sup> March 2025

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**Appeal Ref: APP/X5210/W/24/3352626**

**17 York Way, London N7 9QG**

- 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 Mendoza Limited against the decision of the Council of the London Borough of Camden.
  - The application reference is 2023/3891/P.
  - The development proposed is renovation of the existing public house (sui generis) at ground floor and basement level and redevelopment above to provide seven new homes in four storeys of flatted accommodation (Class C3)
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs has been submitted by Mendoza Limited (appellant) against the Council of the London Borough of Camden. This is the subject of a separate decision.

### Preliminary Matters

3. The main parties agreed a revised description of development as part of the appeal process<sup>1</sup> and it is on that basis that I have determined the appeal.
4. Amended plans were submitted during the appeal which propose a metal balustrade at roof level as opposed to glass<sup>2</sup>. I note that the glazed element was a concern specifically raised by the Council and Camden Square Conservation Area Advisory Committee (CAC) and I gave each an opportunity to respond. I am satisfied that this focused consultation was a procedurally fair approach, given the relatively minor nature and extent of the changes proposed<sup>3</sup>. As such, in reaching my decision, I have accepted the amended plans and considered the comments made in response.
5. The main parties resolved the substance of their disagreement regarding viability and the appellant provided an updated statement and summary<sup>4</sup>. As an updated National Planning Policy Framework (December 2024) (the Framework) was

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<sup>1</sup> Para 1.4 Statement of Common Ground

<sup>2</sup> HD5 – condition no 2 includes these amended plans

<sup>3</sup> Satisfying the principles set out in *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

<sup>4</sup> HD1

introduced during the course of the appeal, the main parties also submitted addendums to their statements, all of which I have taken into account.

6. A bi-lateral Planning Obligation Agreement (S106 Agreement) was submitted and executed following the Hearing. As a result of this, several of the Council's reasons for refusal have been addressed<sup>5</sup>.
7. Given the site's location within a Conservation Area, I have had regard to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

## **Main Issues**

8. The main issues are:

- Whether the proposal would preserve or enhance the character or appearance of the Camden Square Conservation Area; and,
- The extent to which the proposal would address climate change mitigation requirements, having regard to the extent of demolition proposed and local and national policies.

## **Reasons**

### *Character and appearance*

9. The site lies in the Camden Square Conservation Area (CA). The evidence before me includes the Camden Square Conservation Area Appraisal and Management Strategy 2011 (CAAMS) which, whilst not forming part of the development plan, provides a valuable insight into the important characteristics of the CA. I have considered this, alongside the evidence before me and the observations I made on my site visit, in reaching my decision.
10. The CA is rooted in the rapid urban expansion of London during the 19<sup>th</sup> century, its layout serving as a reminder of its historic premeditated and planned design, comprising a gridded pattern of linear streets. There is a hierarchy in terms of architectural character, with the overriding aesthetic quality of the large Victorian stuccoed villas and terraces illustrating Camden square (the square) itself as the centrepiece. The square is one of the five-character areas identified by the CAAMS, with the appeal site being located towards its south-eastern edge, at the convergence of a main road junction and part of the 'boundary roads' character area.
11. The character of this part of the CA is an expression of a grittier social history. In the past, the local area included industries associated with 'Belle Isle', and a large cattle market located off York Way. The nearby large railway stations facilitated the movement of goods and people to the burgeoning industries, underlining the area as a largely working-class suburb<sup>6</sup>.
12. The historic authenticity of the CA extends beyond its 19<sup>th</sup> century origins, and World War II marked a significant later chapter. The new buildings that emerged from the extensive bombing tended to be markedly different in style with, and

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<sup>5</sup> Reasons for refusal 3 – 6.

<sup>6</sup> See chapter 2 of appellant's Heritage and Townscape Visual Assessment

infilled gaps between, the older traditional buildings. The later buildings mark the response to changing circumstances brought about by the war, but the extent to which they contribute to historical character depends largely on their architectural quality.

13. Overall, the boundary roads character area of the CA foregoes the grandeur and leafy richness of the square. Even the more decorated traditional townhouses and terraces along Agar Grove display restrained architectural detailing, but the relative modesty of the architecture is not without merit and is befitting of the area's humbler origins, contributing to the CA as a whole. Therefore, insofar as it relates to this appeal, its significance derives from the relative simplicity of its architecture, and the overall quality and form of the buildings that make a positive contribution to the townscape having regard to local and historical context.
14. Turning now to the contribution made by the appeal site. The CAAMS is accompanied by a map<sup>7</sup> which purports to show the positive, negative and neutral buildings and spaces within the CA in relation to townscape contribution, with each being shaded accordingly. Curiously, the appeal building is not shaded. The Council refer to this as an 'administrative error' relating to the time at which the accompanying map was produced, but there is no tangible evidence to support this assertion. Another equally plausible explanation is that the appeal building was simply not surveyed at the time of writing the guidance.
15. The remainder of the CAAMS does not help much either. There is fleeting reference to its historic use as a public house, but no other reference or analysis contained within which sheds light on its relative contribution. The CAAMS states that all properties make a positive contribution to the CA, unless listed as neutral or negative. However, given its anonymity in relation to this document, which leads me to question whether it has been assessed in any detail at all, it cannot be assumed that it is a positive contributor<sup>8</sup>. Therefore, it falls on me as decision maker to consider its relative significance and the contribution it makes to the CA.
16. Turning to the specifics of the existing building, there is broad agreement between the main parties that it was constructed during the 19<sup>th</sup> century and substantially altered during the early to mid-20<sup>th</sup> century. The first floor and above can be read as a broadly 'modernist' approach and a deliberate rejection of the traditional and classical style. The earlier ground floor public house retains a more traditional architectural approach, but several unsympathetic alterations have diminished its authenticity somewhat and, when combined with the divergent modernist appearance of the upper floors, this is not a building which is readily appreciable as a traditional 19<sup>th</sup> century corner public house. Moreover, the materials and detailing do not suggest inherent architectural quality, nor is it a building which can be attributed to a known architect.
17. Furthermore, when viewed from Agar Grove, the building exhibits an incongruous side elevation, this being due to a prominent gap which exists between it and neighbouring buildings<sup>9</sup>. I do not consider that this represents a deliberate and conscious design feature intended to distinguish between a hierarchy of streets, or otherwise contributes positively to the CA. As such, this along with the above are all negative indicators of townscape value.

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<sup>7</sup> Map 3 of the CAAMS

<sup>8</sup> In line with para 220 of the Framework

<sup>9</sup> See 'View 1 – Existing' of Heritage and Townscape Visual Impact Assessment

18. However, the building also exhibits positive aspects. Whilst appearing rather sombre when viewed from the street, this is partly a symptom of wear and tear, and there remains a certain elegance in its simplicity. This is due to the angular and smooth appearance of its facade and the symmetrical, hierarchical fenestration arrangement of the upper floors of the building, which are conceptually at least, in keeping with the more restrained appearance of nearby traditional buildings within this part of the CA. It is a style which unites with the building's overall scale and massing and means that it sits comfortably in its corner plot location. The public house use is also historically significant.
19. Considering both positive and negative indicators above, I conclude that the building overall makes a neutral contribution to the CA.
20. Turning now to the proposal; specifically, the mansard roof element. It would protrude above the flat roof and parapet of the proposed building, being taller than the terraced buildings located on either side and within this part of the CA, and which exhibit no similarly significant roof extensions.
21. It would not only be its height, but rather, the combined effect of height, width, and the number, scale and arched style of the dormers which would comprise a bulky and highly present feature and one which would not be successfully accommodated behind the proposed parapet, resulting in a cumbersome addition to the building.
22. Whilst its angled alignment relative to the parapet would reduce its visual presence along Agar Grove, it would be far from the recessive and subdued addition indicated by the appellant. This would be particularly apparent when viewed from the junction<sup>10</sup>, where the street-facing parapet walls of the buildings along Agar Grove and York Way effectively conceal their underlying roof forms, so that the roofscape appears plain and unadorned. Conversely, the resultant built form would appear incongruous within the prevailing roofscape and street scene, harming the townscape.
23. The appellant refers to other historic building examples where overtly decorative approaches to classical architecture have been integrated into the townscape, some of which include large mansard roof elements<sup>11</sup>. As a point of principle, I agree that there is scope to accommodate a building on this site with a greater sense of grandeur and scale than the existing.
24. I also recognise that there are other buildings close to the appeal site of notable scale and mass which adopt individual, modern design approaches. However, they fall outside the CA, and it is the buildings closest to the appeal site within the CA which are the most important in framing the significance of the CA and the site's context.
25. In this regard, the principal elevations of the proposed building would include string courses, cornicing, prominent window pediments, columns and decorated capitals, all of which would be reminiscent of an exuberant 19<sup>th</sup> century 'Italianate' classical style. In contrast, the rear of the building would adopt a completely opposing style, incorporating large, rectangular window apertures with narrow surrounds, balconies, undecorated elevations and an overall appearance which would be

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<sup>10</sup> See Views 2, 3 and 4 – Proposed of Heritage and Townscape Visual Impact Assessment

<sup>11</sup> See 'Corner Public House condition study' and 'Precedent Study' in Architectural Statement of Case

unmistakably contemporary. Whilst views of the rear elevations would be obtainable only from a relatively small part of St Pauls Mews, which is not a key townscape view, it is nevertheless part of the CA and the proposed building's differing styles are indicative of a muddled design response.

26. I recognise that the scheme is not intended to be an exact facsimile of an Italianate building, but the issue here is that it would neither adopt a restrained approach to design which respects the pared back architectural character of the surroundings, nor would it represent a distinctive style with an assertive, positive and coherent identity. As a result, the differing styles, along with the obtrusive mansard roof element, would result in a disconnected building form which would fail to successfully marry the different elements, distorting the historic legibility of the CA and harming the townscape.
27. The proposed infilling of the 'gap' along Agar Grove, whilst a positive aspect in principle, would not compensate for the overall harm related to the design particulars of the proposed building when viewed in its entirety. I also recognise that certain elements of the proposal including sash window types and column designs could be altered by planning condition to better reflect an authentic 19<sup>th</sup> century classical style. However, this would not address the other harmful elements I have identified in relation to the building's townscape and heritage impacts.
28. Whilst the scheme would preserve the positive contribution made by the public house use, the proposal would replace a building which has a neutral impact on the CA with one which would have a negative impact on the CA. Therefore, overall, the proposal would harm the character and appearance of the CA.
29. Finally, I agree with the main parties that no other heritage assets would be harmed by the proposal, but it does not alter my findings in relation to the CA.

### *Climate Change*

30. Policy CC1 of the Camden Local Plan 2017 (Local Plan) requires all development to minimise the effects of climate change and encourages high environmental standards. Criterion (e) requires that substantial demolition is justified by evidencing that it is not possible to retain and improve the existing building. There is disagreement between the main parties as to whether the proposal would involve 'substantial demolition'.
31. Whilst the appeal site lies in a Conservation Area, Policy CC1 does not distinguish between heritage and non-heritage assets but, rather, it applies to *all* developments. The *Shimizu*<sup>12</sup> and *Clin*<sup>13</sup> Judgments submitted with the appeal relate to heritage matters and the Act and have no regard to the objectives of the policy in question, which seeks to limit climate change impacts by minimising carbon dioxide increases from development<sup>14</sup>. The subtext to Policy D2 of the Local Plan is a heritage policy and is of little assistance for the same reasons. In any event, the Judgments do not specifically define the term 'substantial demolition', nor is there a definition contained within the Local Plan.

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<sup>12</sup> *Shimizu (UK) Limited v Westminster City Council* [1997] 1 WLR 168

<sup>13</sup> *Clin v Walter Lilly & Co Ltd* [2021] EWCA Civ 136

<sup>14</sup> Paragraph 8.3 of Local Plan

32. Put simply, the policy wording implies a measure of demolition which is less than total or complete, as indicated by preceding 'demolition' with 'substantial'. As to whether the proposal would involve substantial demolition relies on judgment based on the particular circumstances of the case.
33. In this regard, the appellant's assessment is lacking in detail and amounts to a quantitative calculation involving the demolition of part of three elevations only, which would amount to a loss of 20% (80% retained). I was told during the hearing by the appellant that, including the omitted western elevation, the extent of elevation retention would be *circa* 65% and I have accepted this on face value.
34. However, in my view this betrays the extent of total demolition, which should not necessarily be limited to the visible external walls and, as the loss of any part of the building's fabric could increase carbon emissions, a broader analysis of demolition is appropriate.
35. By considering the submitted floor plans and section drawings, the extent of demolition would include the internal floors (excluding the basement) and the roof alongside part of the four main elevations<sup>15</sup>, resulting in a considerable loss of the building's fabric and structure. In the absence of a comprehensive analysis to convince me otherwise, the proposal would involve substantial demolition for the purposes of Policy CC1.
36. The Camden Energy Efficiency and Adaption Supplementary Planning Document 2021 (SPD) provides guidance to assist with implementing Policy CC1. It includes a table which, when read alongside the SPD, is intended to ensure that the condition and re-use potential of existing buildings is properly taken into account<sup>16</sup>. Following this, a hierarchical approach to development should be adopted, optimising resource efficiency<sup>17</sup>.
37. However, the extent to which retention or re-use of the existing building has been explored in this case is limited to a brief analysis, based on retaining existing external and internal party walls of the building, which it is concluded would lead to a residential scheme which would not efficiently utilise the space within the building<sup>18</sup>. This falls short of a comprehensive analysis of potential options to facilitate re-use, as set out in the SPD and accompanying table. Ultimately, it has not been demonstrated that it would not be possible to retain or improve the existing building.
38. I appreciate that Policy SI2 of the London Plan 2021 (London Plan), which also concerns carbon emissions minimisation, places no requirement on schemes involving 'substantial demolition' and, instead, relates to 'major development'. However, the Local Plan's approach is justified on the basis of local circumstances, whereby utilising and improving existing building stock, which accounts for 90% of the carbon dioxide emissions<sup>19</sup>, is prioritised over new development which has the potential to increase carbon emissions. This approach is in general conformity with the Policy SI2 London Plan objective of minimising greenhouse gas emissions and, indeed, London Plan Policy SI7, which promotes the reuse of materials, waste minimisation and resource efficiency. It is also consistent with the Framework's

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<sup>15</sup> Pages 18 – 20 of Architectural Statement of Case

<sup>16</sup> Page 45 of SPD

<sup>17</sup> Para 9.6 of SPD

<sup>18</sup> Page 21 of Architectural Statement of Case

<sup>19</sup> Para 8.2 of Local Plan

emphasis on encouraging reuse of existing resources<sup>20</sup>. Therefore, the weight attributed to any conflict with Policy CC1 should not be reduced as a result.

39. The submitted S106 Agreement includes a requirement for an Energy Efficiency and Renewable Energy Plan to be submitted, and I recognise that the submitted Energy and Sustainability Assessment demonstrates that the building would operate more efficiently than the existing. However, this is a separate requirement relating to other policies including criterion (a) of Policy CC1, and the submission before me does not explore or address carbon reduction measures through fabric retention.
40. Further to the above, the SPD requires a Whole Life Carbon Assessment in the event that substantial demolition is pursued but, as that has not been provided, the embodied carbon of the existing building set against the proposed building over its lifetime is not known. This further reinforces that the Energy Efficiency and Renewable Energy Plan would not address the fundamental question concerning the suitability of the appeal building, in relation to carbon reduction objectives, and associated conflict with criterion (e) of Policy CC1.
41. Therefore, the proposal would not adequately address climate change mitigation having regard to the substantial demolition proposed. As such, the proposal would conflict with Policy CC1 which requires development to minimise the effects of climate change by, amongst other things, demonstrating that it would not be possible to retain and improve the existing building. There would be conflict with Policy S17 of the London Plan insofar as the scheme would not optimise resource efficiency. The scheme's failure to explore these opportunities means that there would also be conflict with paragraph 161 of the Framework, which encourages the reuse of existing resources.

### **Other Matter**

42. The issues raised by the appellant relating to content contained within the pre-application advice are matters between the main parties. I have determined the proposal on its planning merits. I deal with any of the points raised, insofar as they relate to the behaviour of the Council and any unnecessary or wasted expense accrued as a result, as part of my Costs decision.

### **Heritage Balance**

43. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to its conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through the alteration or destruction of the asset and that any such harm should have a clear and convincing justification. Given my findings above relating to the harmful effects, I find that the proposal would fail to preserve the significance of the CA. I consider the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
44. In terms of benefits, the proposal would make a relatively modest contribution to housing numbers through providing a suitable mix of houses which would exceed national space standards. In the context of the Council's substandard past housing

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<sup>20</sup> Para 161 of the Framework

delivery<sup>21</sup> and London's priority which is to increase housing delivery<sup>22</sup>, this contribution carries moderate weight in favour.

45. The Framework states that using brownfield sites and under-utilised buildings should be given substantial weight and great weight should be given to the development of windfall sites<sup>23</sup> but this needs calibrating in light of the modest scale of the development proposed in this case.
46. The proposal would reinvigorate the public house offering, helping create favourable conditions for economic growth and benefitting the community, a matter which attracts significant weight in favour. In respect of the renewable and low carbon measures proposed, I attribute them limited weight because, even though the proposed building would operate in a more energy efficient and environmentally friendly manner than the existing<sup>24</sup>, the potential for the existing building to support carbon reduction through retaining and enhancing existing fabric has not been properly considered.
47. A number of other benefits are also highlighted, including ensuring high quality living conditions for existing and future occupiers, flood risk, drainage, pedestrian and cycling benefits, secured by design, car-free development and waste recycling and storage<sup>25</sup>. However, these mainly relate to policy requirements which would be expected from any other well-designed development in this urban location. As such, these benefits are attributed limited weight.
48. Even if it could be demonstrated that the extent of demolition proposed would be justifiable, and accepting the precarious financial viability of the scheme<sup>26</sup>, there is no substantive evidence before me to indicate that harm to the CA could not be avoided by designing an alternative and economically feasible scheme. Therefore, I am not satisfied that the proposal would represent the site's optimum viable use.
49. Consequently, when considering the above collectively as public benefits, they are insufficient to outweigh harm to the CA, to which I attribute considerable importance and weight.
50. In conclusion, the proposed development would harm the character and appearance of the Camden Square Conservation Area. There would be conflict with Policies D1 and D2 of the Local Plan which, amongst other things, requires development to respect local context and character, to integrate well with surrounding streets, and to at least preserve the historic environment. Whilst no specific policy is stated in the Council's reason for refusal, there would be conflict with Policy HC1 of the London Plan which broadly seeks to conserve heritage assets.

## Planning Balance

51. As set out above, housing delivery has fallen below requirements, but there is nothing before me to indicate that the requirement under Policy CC1 of the Local Plan, to consider the environmental effects of substantial demolition, has restricted housing growth. The conflict with this policy I have identified should not be

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<sup>21</sup> By virtue of the Council's recently published Housing Delivery Test results being below target

<sup>22</sup> Greater London Authority – Accelerating Housing Delivery – Planning and Housing Practice Note December 2024

<sup>23</sup> Paras 73 and 125 of the Framework

<sup>24</sup> In accordance with para 167 of the Framework

<sup>25</sup> 9.31 Statement of Common Ground

<sup>26</sup> See Proof of Viability and updated Statement of Common Ground



lessened as a result. Furthermore, contrary to the appellant's assertion, the scheme would not comply with Policy D3 of the London Plan in relation to site optimisation, because this relies on a design-led approach whereby development also responds to its context.

52. The scheme would satisfy a number of policies in the Local Plan and London Plan covering a range of different topics, including transport, parking, accessibility and other environmental matters. However, the planning balance should not rely on a purely quantitative policy count but, rather, it is also necessary to consider the most important policies insofar as this appeal is concerned.
53. In this regard, there would be compliance with Policies H1 and H4 of the Local Plan and London Plan policies relating to market and affordable housing. However, there would be conflict with policies including D1, D2, CC1 of the Local Plan and HC1 and SI7 of the London Plan due to identified harm to the character and appearance of the CA and the scheme's failure to adequately address carbon reduction and climate change requirements. As such, there would be conflict with the development plan when read as a whole.
54. As a result of the identified harm to a designated heritage asset, this provides a strong reason for refusing the development<sup>27</sup>. Therefore, the presumption in favour of sustainable development that would otherwise have applied in relation to paragraph 11(d)(i) of the Framework, due to the Council's inadequate housing delivery test position, does not apply.
55. The benefits as set out in the 'heritage balance' are material considerations but collectively are not of sufficient weight in this instance to indicate a decision otherwise than in accordance with the development plan<sup>28</sup>.

### **Conclusion**

56. For the reasons set out, the appeal is dismissed.

*M Woodward*

INSPECTOR

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<sup>27</sup> Footnote 7 of Framework

<sup>28</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004

## **ANNEX A: APPEARANCES**

### FOR THE APPELLANT:

**Aaron Zimmerman** *MA MSc MRTPI*

Director – Centro  
Planning Consultancy

**Tom Slater** *DipArch PGDip ARB RIBA*

Director – T2S  
Architecture

**Harry Clarke** *MA MCIfA*

Heritage Planning  
Associate - Stantec

**Alexander Roth** *MSc*

Planner – Centro Planning  
Consultancy

**Jessica Guy** *MArch PGDip ARB*

Project Architect – T2S  
Architecture

**Kerry How** *BA(Hons) Econ.*

Director – Housing People  
Partnerships

**David Meghan** *MRICS PGDip Proj.Man.*

Director – Meghan & Co.  
Limited

### FOR THE LOCAL PLANNING AUTHORITY:

**Ed Hodgson**

Senior Planning Officer

**Nick Baxter**

Senior Conservation Officer

**Clare Jones**

Viability Consultant (BPS)

**Miles Peterson**

Planning Officer (Enforcement)

**Elizabeth Beaumont**

Appeals and Enforcement  
Manager

A number of interested parties also attended the hearing.

## **ANNEX B: HEARING DOCUMENTS**

- HD1 – Updated Statement of Case from appellant 17.02.25 – viability
- HD2 – Draft conditions (Appellant)
- HD3 – S106 audit trail (Council)
- HD4 – Amended Plans (as per the list of plans set out in HD5)
- HD5 – Agreed Conditions

### *After Hearing closed:*

- HD6 – S106 Agreement (05/03/2025)
- HD7 – Representation from Sameh El-Gamal
- HD8 – Representation from Camden Square Conservation Area Advisory Committee
- HD9 – Appellant response to HD7
- HD10 – Appellant response to HD8