



Appeal Decision

Site visit made on 24 February 2025

by **C Skelly BA (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd April 2025

Appeal Ref: APP/X5210/W/24/3356020

50 Chalk Farm Road, Camden, London NW1 8AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Shakroo Khan of Camden Property Services (London) Ltd against the Council of the London Borough of Camden.
 - The application Ref is 2024/3892/P.
 - The development proposed is re-construction of a smaller retail unit and residential flat and the creation of an extra flat by using part of the ground floor and a new third floor and access to the flats by a common staircase within a front extension.
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Decision

1. The appeal is dismissed and planning permission for re-construction of a smaller retail unit and residential flat and the creation of an extra flat by using part of the ground floor and a new third floor and access to the flats by a common staircase within a front extension is refused.

Preliminary Matters

2. The appeal relates to a planning application that was not determined by the Council within the prescribed period. I note that the Council would have refused planning permission should it have made a decision on the proposal. I have had regard to the parties' submissions in establishing the main issues which I set out below.
3. The Council considers that the scheme does not give rise to any significant material impacts on the viability of the town centre, would meet the nationally described space standards and would not have impact in terms of loss of privacy and overlooking. However, the Council considers that the proposed development would fail to preserve the character and appearance of the site and surrounding area; would result in significant loss of light to a potentially habitable window at 1-3 Ferdinand Street; in the absence of a legal agreement to secure the development as car free would contribute unacceptably to parking stress and congestion in the surrounding area; would fail to secure adequate provision for on-site cycle parking; and, in the absence of a legal agreement securing a construction management plan would be detrimental to the amenity of neighbouring occupiers.
4. The National Planning Policy Framework (the Framework) was revised in December 2024 and it was further updated in February 2025. Those parts of the Framework most relevant to this appeal have not been substantially amended. As a result I have not sought submissions on the revised Framework, and I am satisfied that no interested parties have been prejudiced by taking this approach.

Main Issues

5. The main issues are:

- the effect of the proposed development on the character and appearance of the site and surrounding area;
- the effect of the proposed development on the living conditions of neighbouring residents with regards to daylight and construction disturbance;
- the effect on the free-flow of traffic, with particular regard to the availability of on-street parking; and
- whether the proposed development provides adequate provision for cycle storage.

Reasons

Character and appearance

6. The appeal site is a two-storey property, plus basement which comprises a shop unit at ground floor level with residential flats above. The site has suffered from fire damage and at the time of my site visit was vacant.
7. The property is located within a terrace comprising retail units with residential above which are set back from the front face at ground floor level. The terrace is a mix of brick and render with roofs set behind parapet walls. The appeal site and 49 Chalk Farm Road have a different appearance to the wider terrace, being slightly set back and having a different roof profile. It also adjoins a more prominent three-storey public house which wraps around the corner of Ferdinand Street. The areas to the front of the properties at first floor level appear to be used as roof terraces predominantly enclosed by timber fencing.
8. The proposal would provide two flats with space created through an additional floor level. In order to provide access to the flats a new staircase would be created, which would be located within a forward extension to the front elevation at first floor level, which would have a pitched roof sloping towards Chalk Farm Road. At the third-floor level the roof would be pitched to the front elevation and have a large rooflight.
9. The proposed increase in height would create a stepped roof effect between Nos. 51 and 49, which would then step back up to the adjoining property at No 48. The proposed rooflines of the main roof and the first-floor extension would have different pitch angles. Together, the varied heights and angles of the proposed roofs would create an awkward, overly fussy appearance, directly contrasting with the existing simple rooflines of the terrace. Furthermore, the extent of the proposed slate roofs of the third floor and front extension reading as a continuing block would dominate the front elevation of the property, which would be a conspicuous feature. Therefore, despite its limited width, the proposed extension, increased height and roof pattern would have a prominent appearance within the street scene and detract from the simple character of the terrace.

10. Although the proposed privacy screen would not be particularly visible from wider views it would conflict with Camden Planning Guidance (Home Improvements) (2021) which states that they should be made of natural materials to allow plants to grow on them.
11. In conclusion, the proposed development would harm the character and appearance of the site and surrounding area and thereby conflicts with Policy D1 of the Camden Local Plan (2017) (LP), which seeks to ensure, amongst other things, that high quality design is secured which respects local context and character.

Living conditions

Daylight

12. A Daylight and Sunlight Report¹ has been submitted which concludes that the proposed development would have a relatively low impact on the light receivable with the exception of one window referenced as number 89. This window is located on the side of the rear outrigger of 1 and 3 Ferdinand Street. From the submitted evidence it is not clear whether this window serves a habitable room. The appellant contends that less weight should be given to bedrooms as they are likely to be used less than living rooms during the day. Although I recognise that bedrooms are not the primary living space they also serve as spaces for studying, home working and children's play. As I have no evidence on whether this window serves a habitable room, I cannot be certain that the proposal would not harm the living conditions of the residents of this property with regards to daylight.
13. The appellant puts forward that compensation could be offered in lieu of any loss of daylight. However, I do not have any details before me indicating how the effect on the loss of daylight to this property could be overcome. Therefore, I am unable to conclude that such a condition would mitigate the harm I have identified.
14. The proposal therefore would create unacceptable living conditions for the residents of 1-3 Ferdinand Street with regards to daylight.

Construction disturbance

15. Policy A1 of the LP seeks to ensure that amenity of communities is protected and requires mitigation where necessary. As a result of the proposed building works and their proximity to the adjoining eastbound cycle lane, the Council would require a construction management plan and implementation support contribution of £4,194 and impact bond of £8,000 in accordance with Policy A1. This would be to ensure that development is carried out without unduly impacting the operation of the local highway network or neighbouring amenity. However, no draft legal agreement has been prepared. The appellant has suggested that this could be controlled through a condition which requires the completion of a S106 legal agreement in order to avoid potentially abortive costs.
16. Planning practice guidance states that in exceptional circumstances negatively worded conditions requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at

¹ Undertaken by Right of Light Consulting dated 6 September 2024

serious risk. As there are no such exceptional circumstances in this case, the most appropriate mechanism to secure contributions is through a planning obligation.

17. In the absence of a signed legal agreement and a mechanism for collecting funds to provide any required mitigation, I cannot be certain the proposal would not harm the living conditions of neighbouring occupiers. The proposal would therefore create unacceptable living conditions for neighbouring residents with regards to construction disturbance.
18. The proposal would cause unacceptable living conditions for the residents of 1-3 Ferdinand Street with regards to daylight, and to neighbouring residents with regards to construction disturbance. The proposal therefore conflicts with Policy A1 of the LP, which seeks amongst other matters to protect the quality of life of occupiers and neighbours.

Car free parking

19. The appeal site is located within a Controlled Parking Zone where there is significant parking pressure. The proposal makes no provision for on-site parking and there is potential for it to generate demand for further on-street parking, which could result in illegal parking which in turn would have implications for the free-flow of traffic. Policy T2 of the LP, amongst other things requires that all new development in the Borough to be car-free. The policy includes a list of measures by which this will be achieved including not issuing car parking permits in connection with new developments and the use of legal agreements to ensure that future occupants are aware that they are not entitled to such permits.
20. The appellant has not submitted a draft s106 legal agreement which seeks to secure the car-free development as required by the Council. For the same reasons as those relating to construction disturbance the most appropriate mechanism to secure car-free development is through a planning obligation.
21. In the absence of a signed legal agreement, I cannot be certain the proposal would not harm the availability of on-street parking. The proposal therefore conflicts with Policies T1, T2, A1 and DM1 of the LP which amongst other things seek to limit the availability of parking and requires all new developments to be car free and to protect the quality of life of neighbours.

Cycle storage

22. Policy T1 of the LP requires parking standards to be provided in accordance with the standards set out in the London Plan (2021). Although the submitted plans include the provision of vertical wall hung cycle storage for 4 bicycles within the common entrance, it is unclear whether this would be lockable as required by the policy. Furthermore, it is not clear whether there would be sufficient space around the stored bicycles for residents to move freely around this common area. Based on the submitted evidence the proposal fails to provide adequate provision for the storage of cycles.
23. The proposal does not make adequate provision for cycle storage. It therefore conflicts with Policy T1 of the LP, which seeks amongst other things to promote sustainable transport by prioritising walking, cycling and public transport.

Other Matters

24. The boundary of the Regent's Canal Conservation Area (CA) runs along the front of buildings on the opposite side of the road to the appeal site. The significance of the CA is derived from its canal infrastructure. The Council have not raised any concerns in relation to the effect of the proposed development on the setting of the CA. Within the CA, opposite the appeal site there is a recently constructed supermarket, which creates a physical separation between it and the wider CA. Therefore, I do not consider that the proposal would cause harm to the setting of the CA.

Conclusion

25. The proposal would create one additional dwelling and would bring an empty retail unit back into use. However, I have identified harm to the character and appearance of the area, the living conditions of neighbouring occupiers with regards to daylight and construction disturbance, the availability of on-street parking and cycle provision. These harms are not outweighed by the benefits which I have identified. The proposal therefore conflicts with the development plan. There are no material considerations that indicate that the appeal should be made other than in accordance with the development plan.
26. Accordingly for the reasons given above the appeal should be dismissed.

C Skelly

INSPECTOR