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Mr Christopher Ries
The Planning Inspectorate
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Our Ref: 2013/3794/P
Contact: Christopher Heather
Direct Line: 020 7974 1344
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Date: 28 March 2014

Dear Mr Ries,

**RE: Planning appeal by Goldcrest Land (UK) at Hawley Mews, London, NW1
(PINS Ref: APP/X5210/A/14/2214029)**

Proposal: Redevelopment of former car park to provide three no. two bedroom mews houses and associated landscaping, amenity and cycle parking.

Summary

Planning permission was refused for the following reasons:

1. The quality of the proposed accommodation
2. The impact on neighbouring properties

The Council's case for this appeal is largely set out in the officer's delegated report. This details the site and surroundings, the site history and a consideration of the main issues. A copy of the report was sent with the questionnaire. This is considered to not only demonstrate that the proposal is unacceptable, but also that there were a number of factors which were taken into consideration to reach a fair and balanced conclusion.

In addition to the information sent with the questionnaire I would be pleased if the Inspector could take into account the following information and comments before deciding the appeal. References to specific sections and paragraphs of the appellant's grounds of appeal are either made directly or given in brackets throughout the text.

Status of Policies and Guidance

The London Borough of Camden Local Development Framework was formally adopted on the 8th November 2010. The policies of relevance to the appeal scheme are expressed in the reasons for refusal are, and the full text of the relevant policies was sent with the questionnaire documents.

The Council also refers to supporting guidance documents: The Camden Planning Guidance has been subject to public consultation and was approved by the Council in 2013.

With reference to the National Planning Policy Framework 2012, policies and guidance contained within Camden's LDF 2010 are up to date and fully accord with paragraphs 214 – 216 (Annex 1) of the NPPF and should therefore be given full weight in the decision of this appeal. The National Planning Policy Framework was adopted in April 2012 and states that development should be refused if the proposed development conflicts with the local plan unless other material considerations indicate otherwise. There are no material differences between the Council's policies and the NPPF in relation to this appeal.

The Planning Practice Guidance (PPG) has been referred to and the proposal considered against the advice. The nature of the reasons for refusal is such that the advice in the PPG is not specific. However, there are some general points about the use of planning conditions and the suggested conditions in appendix 3 reflect this. The PPG provides advice on design and climate change, and emphasises the importance of both. The comments below refer to both issues as they affect the assessment, but it is not considered that the design of the proposal or its sustainability credentials are sufficient to outweigh the concerns raised.

Comments on appellants grounds of appeal

Reason for refusal 1

The proposed residential units, in the middle of the site and to the rear, by virtue of their layout and the position of their windows, would have poor outlook providing an unacceptable standard of accommodation and creating an oppressive internal environment for future occupiers. This would be contrary to policies CS5 of the Camden Core Strategy and DP26 of the Camden Development Policies of the Local Development Framework.

The reason for refusal is focused on the internal environment of the middle and rear unit. The appellant refers to design and sustainability (5.18). It is acknowledged that there are no concerns raised by the Council about these two issues. However these are not related to the Council's reason for refusal. The suggestion that the architecture leads to an "appropriate response to the site setting" does not outweigh any issues of neighbouring amenity. Design issues are not sufficient justification for the creation of substandard residential accommodation. The appellant refers to a 45 degree line to the support their proposal. This is assumed to refer to planning policy from the London Borough of Brent which is principally concerned with the second reason for refusal relating to the impact on neighbouring properties. The same is true of paragraph 5.24 which refers to overlooking and privacy.

The appellant has referred to a requirement for there to be 3m between a window and any structure or wall. This is from *CPG2 Housing* but specifically refers to habitable rooms in basements. No basement accommodation is proposed, and whilst the appellant puts this forward as being an objective test of what constitutes a pleasant outlook (5.28) it is somewhat symptomatic of the proposal. Outlook cannot be reduced to dimensions, and inevitably has a subjective element. The advice is intended as guidance, and it is important to note that it would most commonly be used when assessing a basement extension to an existing property where there is already ground floor accommodation. The appellant is applying the same logic to the ground and first floor of units proposed for a currently empty site. There is nothing on the site which suggests, or inevitably leads to, the form of development being

proposed. The sinking down of the development to reduce the impact of the building on neighbouring properties has exacerbated the problems for the internal layout of the proposed units.

Reference is made to the sunlight and daylight that would be received by the properties (5.34-5.36). Similarly to the points raised above this is a separate issue to outlook, and does not in itself outweigh the concerns.

Reason for refusal 2

The proposed development, by virtue of its height, bulk, mass and close proximity to neighbouring properties, would result in an unacceptable impact on the outlook of neighbouring properties to the detriment of the amenity of existing and future occupiers. This would be contrary to policies CS5 of the Camden Core Strategy and DP26 of the Camden Development Policies of the Local Development Framework.

There is disagreement with the appellant that this reason echoes the issues in the first reason for refusal (5.43). Both are independent of each other and whilst they include reference to outlook this is in a different context. The 'Brent test' is referred to again, despite it not being policy within the London Borough of Camden. Appendix 1 illustrates what was stated in the delegated report to emphasise that this can only ever be a starting point, and passing it does not imply that the impact is acceptable. It shows that the length of the garden can result in a different outcome, even with everything else being unchanged (Examples 1a and 1b). It also shows how a building could be designed to accord with it whilst being tall and close to the affected property (Example 2). Despite the appellant suggesting that the outlook would be "verdant and sylvan" the view of a tall wall would remain, and a green wall cannot disguise this.

The appellant reiterates the position at paragraph 5.53 that the proposed development has been reduced by as much as 1.475m, but the section shows that the part of the buildings nearest to the neighbours have been reduced by only a small amount due to the profile of the roof. The reduction of 1.475 is in the middle of the building where the distance to neighbours is greatest.

The later suggestion (5.53) that the refusal contradicts the pre-application advice is therefore disagreed with. For the reasons outlined, the reduction in height in the part of the building most impacting on neighbours is less than 1.475m, and also less than 1m. There is also the suggestion that the pre-application response contradicts the reason for refusal by stating that the bulk and mass are acceptable (4.1 and 5.53). However, the part of the response where this is stated is the *Conservation and Design* section. Therefore, this is quoted out of context and the fact that there is no objection to the bulk and mass in these terms does not mean that they are not problematic in terms of neighbouring amenity, and the pre-application response clearly outlined this. The appeal scheme was not altered to the extent that the initial concerns raised were overcome.

General

The appellant makes reference to the assessment being subjective (4.1 and 5.57 and the Design Statement in the appendices), and suggests that there is no proof for the conclusion reached (3.5). However, the issues raised cannot be reduced to a purely numerical assessment. The profile and footprint of the development means that the impacts vary from point to point. The information submitted by the appellant at the planning application stage was thoroughly assessed and the conclusion reached was that the proposal had not reached a point whereby it was acceptable. The delegated report provides detail on where and how the conclusion has been reached, including

a number of distances and dimensions. This conclusion is based on judgements reached having taken the necessary measurements from the drawings submitted and visiting the site on more than one occasion to view the reality on the ground.

It is with respect suggested that the appellant's approach is subjective, and that the attempts to demonstrate that it is 'objective' have not succeeded.

The original planning brief¹ for the site is appended to this document. It identified the challenges of developing the site in a way that did not impact on neighbours, and suggested a different form of development to that which was proposed. This advice was considered when making the decision but the assessment was carried out with an open mind.

The appellant refers to the need for more homes to be provided within the borough (6.8) and whilst this is agreed with it was not considered to outweigh the harm to neighbours or the quality of the accommodation. This was the planning balance that was undertaken by bringing together the many aspects of the development, and the conclusion is entirely consistent with the pre-application advice given by officers as well as the planning brief.

Other matters

As indicated in the delegated report a bilateral agreement exists to bind the Council and appellant to those obligations which are discussed in the report.

Government guidance on planning obligations is contained within the Community Infrastructure Levy (CIL) Regulations 2010 which came into effect on 6 April 2010 and the National Planning Policy Framework (particularly paragraphs 203-206).

The CIL regulations limit the use of planning obligations so that a planning obligation must only be sought where it meets all of the following tests:

- Necessary to make the development acceptable in planning terms.
- Directly related to the development.
- Fairly and reasonably related in scale and kind to the development.

The Council considers that each of the obligations contained within the agreement would meet these tests for the reasons set out below:

In the event that the inspector allows the appeal appendix 3 contains suggested conditions.

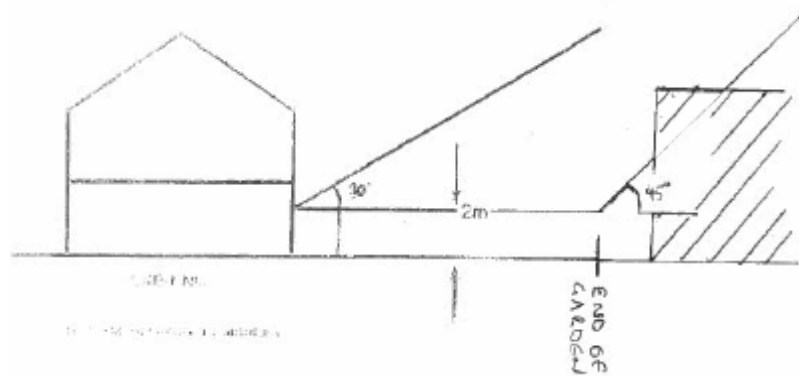
If you have any queries about the above letter or the attached document please do not hesitate to contact **Christopher Heather** on **020 7974 1344**.

Yours sincerely,

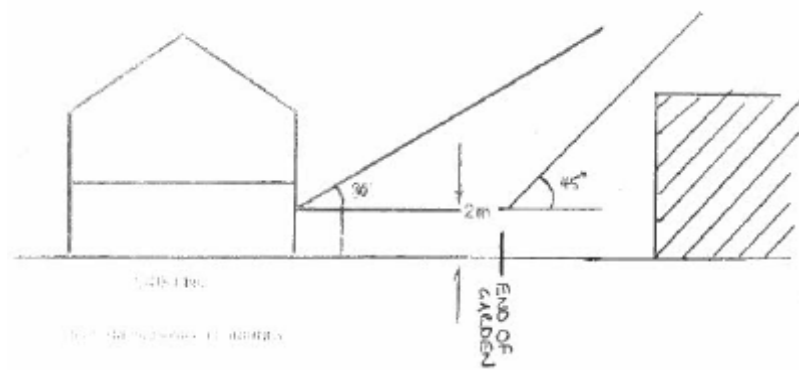
Christopher Heather
Senior Planning Officer
West Area Team

¹ Please note that the title of the document is 'Planning Statement' and has been referred to as Planning Brief to avoid confusion with the appellant's Planning Statement submitted with the planning application and the Design Statement which is appended to the grounds of appeal.

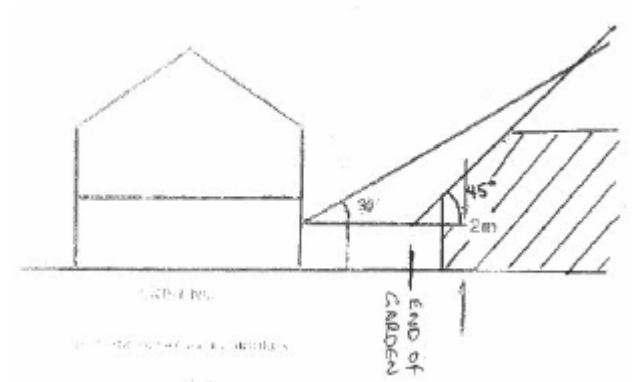
APPENDIX 1 – INTERPRETATIONS OF THE ‘BRENT TEST’



Example 1a – A building which fails the test



Example 1b – The same building passes the test due to the garden being smaller, but with everything else remaining the same



Example 2 – A building which passes the test despite being much closer to the windows of the existing property than example 1a

APPENDIX 2 – PLANNING BRIEF

Planning Statement

Hawley Mews, London NW1



October 2012

1. Introduction

This site comprises a small car park located on the northern side of Hawley Mews, to the west of Hawley Street.

The advice below is structured as follows:

- Principle of proposed change to residential use
- Site capacity
- Housing tenure and mix
- Transport and highways
- Residential development standards
- Sustainability and flooding
- Section 106 requirements
- Feasibility Study
- Conclusion and recommendations

2. Principle of proposed change of use to residential

Housing is the borough's priority land use and Camden seeks to promote new residential development therefore new residential floor space on this site would be welcomed.

This site has previously been in use as a car park and any planning application for change of use will need to include assessment of the impact any parking displacement would have on street parking bays in the area. The existing parking is allocated to Camden tenants who will be relocated within existing local estate parking provision. The development of this site and removal of the spaces will not therefore have a detrimental impact on street parking in the area and a case can be made for the change of use of this site.

3. Site capacity

The location of the site means it could theoretically provide a high density scheme, however, in determining capacity it is also important to consider the specific context of the site. The provision of new residential floor space would be acceptable in principle, and the site appears capable of being developed to some degree. However, consideration would need to be given to the relationship of the site with neighbouring houses.

The most logical design approach would be to develop a footprint that faces onto the Mews, with rear garden areas, as this would avoid direct overlooking into neighbouring properties. Notwithstanding this consideration would also have to be given to potential loss of daylight and sunlight into existing properties. A BRE Rights of Light appraisal is likely to reveal the extent of built form possible on this site.

4. Housing tenure and mix

Camden's detailed approach to securing affordable housing is set out in policy DP3 of the Development Policies. Affordable housing contributions are sought on residential developments that have a capacity for 10 or more dwellings.

Given the likely scale of any development on this site it is not envisaged that any residential development would have capacity for ten or more units therefore a contribution towards affordable housing is unlikely to be required.

The Dwelling Size Priorities Table under Policy DP5 of the Camden Development Policies sets out Camden's priorities in relation to dwelling sizes. For market housing two bedroom dwellings are a very high priority with 3 bedroom and 4+ bedrooms dwellings a medium priority and 1 bedroom dwellings a lower priority. Any redevelopment proposals should reflect these priorities.

5. Transport and highways

In line with Development Policy DP18 and the Camden Planning Guidance all new residential units on this site should be designated as car free. Whilst an argument could be made regarding the existing level of car parking and associated impact on traffic levels this would normally be resisted as it could set a precedent for developers looking at other sites within the Borough. In any case all residential units should be designated as either car capped or car free, i.e. the occupants would be unable to obtain on-street parking permits from the Council. This would be secured by means of the Section 106 Agreement;

Cycle parking should be provided in line with TfL's standards, i.e. 1 space per 1 or 2 bedroom unit and 2 spaces per 3+ bedroom units.

A Construction Management Plan may also be necessary in order to demonstrate how the transport (and other) impacts of the construction process would be managed. These are particularly helpful in circumstances where development works are being carried out in close proximity to residential properties or on sites with very narrow or restricted access. Further information can be found in section 8 of Camden Planning Guidance 6: Amenity, which can be viewed using the following link;

<http://www.camden.gov.uk/ccm/content/environment/planning-and-built-environment/two/planning-policy/supplementary-planning-documents/camden-planning-guidance.en>

6. Residential development standards

In addition to issues such as daylight and sunlight and overlooking outlined above, regard would need to be given to ensuring an adequate standard of accommodation for future residents in relation to outdoor amenity space and internal space standards. Indicative minimum ceiling heights and unit and room sizes are set out in section 4 of Camden Planning Guidance 2: Housing, which can be viewed using the following link:

<http://camden.gov.uk/ccm/content/environment/planning-and-built-environment/two/planning-policy/supplementary-planning-documents/camden-planning-guidance.en>

It should also be noted that under LDF Development Policy DP6, all new housing should be built to Lifetime Homes standards and a minimum of 10% of new housing should either meet wheelchair housing standards, or be easily adapted to meet them.

7. Sustainability and flooding

Under Core Strategy policy CS13 and policy DP22 of the Camden Development Policies, development will be expected to incorporate sustainable development principles into the design and implementation of development, and will be expected as a minimum to achieve Code for Sustainable Homes level 3 (with level 4 expected from 2013). Camden would also seek to promote contributions to and the integration of local energy networks into development where possible. Where appropriate, developments would be expected to connect to existing or proposed networks. More detailed site feasibility work should assess the potential for the development to connect to and contribute towards local energy networks.

It would also need to be ensured that any development limits the amount of run off and waste water entering the combined storm water and sewer network.

8. Section 106 requirements

Given the size of the site and the potential scale of development the scale of contributions to be made via a Section 106 agreement are not likely to be onerous. In particular, contributions towards community facilities and education are not required on schemes of less than five units. Useful information on Camden's approach to planning obligations is provided in Camden Planning Guidance 8: Planning Obligations. The amount that would be required through financial contributions would be subject to a detailed assessment of impact and could cover a wide range of issues, but could be expected to include:

- A highways contribution to mitigate any impacts and to allow any works required in association with any development (the amount to be paid would be subject to a detailed survey);
- Open space provision, if adequate space cannot be provided on-site then contributions of £817 per 1 bed unit; £1,304 per 2 bed unit; £2,317 per 3 bed unit; and £2,642 per 4 bedroom home would be required.

On 1st April 2012 the Mayor of London introduced a Community Infrastructure Levy. This is a new charge to be paid by developers to help fund infrastructure required to support development in the area. In Camden rates will be charged at £50 per sqm of new development. Further information can be found at;

<http://www.communities.gov.uk/publications/planningandbuilding/communityinfrastructurelevymay11>

Key non-financial items that could be sought via a Section 106 agreement could include:

- Sustainable design and construction measures and decentralised energy networks;
- Car free or car capped housing;
- Construction Management Plan;
- Servicing management plan.

9. Feasibility Study

The Feasibility Study carried out by the BPTW Partnership outlines a potential scheme that seeks to address the impact of development on the amenity of neighbouring occupiers, and follows the suggested design approach of developing a footprint that faces onto the Mews. Amenity is considered to be the key issue in the development of this site, and if this can be addressed along the lines of the

Feasibility Study, then there is likely to be scope to provide an innovative design solution that maximises the development potential of the site.

10. Conclusion and recommendations

The priority for any redevelopment of this site would be to secure new residential floor space. The most logical design approach would be to develop with a footprint facing onto the Mews, with garden areas to the rear. Any redevelopment of this site would need to take into account the impact on the amenity of neighbouring properties in terms of daylight, sunlight and overlooking.

APPENDIX 3 – SUGGESTED 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

Site location plan; 5358/P1.01; 5358/P1.02; 5358/P1.03; 5358/P1.04; 5358/P1.05; 5358/P1.01; 5358/P1.21A; 5358/P1.22A; 5358/P1.24A; 5358/P1.25A; JKK7874_01A; Design and Access Statement by Goldcrest Architects (June 2013); Borehole records by RPS (Ref: HLEI_24550); Construction Management Plan (dated May 2013); Brief Report on reduced ground floor level by Chamberlin Consulting LLP (dated 17 June 2013); Daylight and sunlight report by GVA Schatunowski Brooks (Ref: KW10/LJ11, dated 8 May 2013); Ecology Appraisal (Ref: 13-SO26-004v1, dated May 2013); Combined Phase 1 and Phase II Environmental Risk Assessment (Ref: HLEL24450/001R, dated April 2013); Planning Statement (dated June 2013); Sustainability Assessment (Ref: 13-S026001v1, dated 6 May 2013)

Reason: For the avoidance of doubt and in the interest of proper planning.

- 3) All new external work shall be carried out in materials as shown on approved drawing 5358/P1.02 and detailed in the Design and Access Statement by Goldcrest Architects (June 2013).

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 4) The lifetime homes features and facilities, as indicated on the drawings and documents hereby approved shall be provided in their entirety prior to the first occupation of any of the new residential units.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies.

- 5) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the (No. 2) (England) Order 2008 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) and Part 2 (Classes A-C) of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the local planning authority.

Reason: To safeguard the amenity of neighbouring residents and to prevent over development of the site by controlling proposed extensions and alterations in order to ensure compliance with the requirements of policies CS14 and CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 and DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 6) Prior to the occupation of the units hereby approved the areas allocated for cycle spaces and refuse storage shall be provided, made available, and retained as such thereafter.

Reason: To ensure that suitable refuse and cycling provision is available to the flats and to accord with policies CS18 of the London Borough of Camden Local Development Framework Core Strategy and DP17 of the London Borough of Camden Local Development Framework Development Policies.

- 7) Prior to the occupation of the units hereby approved the gate shown at the entrance of the site from Hawley Mews shall be provided and retained as such thereafter.

Reason: To ensure that suitable security arrangements are in place to protect the amenity of future occupiers and to accord with policy CS17 of the London Borough of Camden Local Development Framework Core.

- 8) Prior to the occupation of the units hereby approved the windows hereby approved indicated as being obscurely glazed shall be treated as such and maintained thereafter.

Reason: In order to ensure the amenity of neighbouring properties is maintained and to accord with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 9) Prior to the occupation of the units hereby approved the louvres shown on approved drawing 5358/P1.25A shall be provided and retained as such thereafter.

Reason: In order to ensure the amenity of future occupiers by preventing overlooking in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 10) In the event that additional significant contamination is found at any time when carrying out the approved development it shall be reported in writing immediately to the local planning authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of the Environment Agency's Model Procedures for the Management of Contamination (CLR11), and where mitigation is necessary a scheme of remediation shall be designed and implemented to the satisfaction of the local planning authority before any part of the development hereby permitted is occupied.

Reason: To protect future occupiers of the development from the possible presence of ground contamination arising in connection with the previous

industrial/storage use of the site in accordance with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 11) Full details in respect of the green roof and green wall in the area indicated on the approved roof plan shall be submitted to and approved in writing by the local planning authority before the relevant part of the development commences. The buildings shall not be occupied until the approved details have been implemented and these works shall be permanently retained and maintained thereafter.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies CS13 and CS15 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22 of the London Borough of Camden Local Development Framework Development Policies.

- 12) Prior to commencement of development details of a sustainable urban drainage system shall be submitted to and approved in writing by the local planning authority. Such system shall be based on demonstrating 50% attenuation of all runoff. The system shall be implemented as part of the development and thereafter retained and maintained.

Reason: To reduce the rate of surface water run-off from the buildings and limit the impact on the storm-water drainage system in accordance with policies CS13 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP32 of the London Borough of Camden Local Development Framework Development Policies.