
Appeal Decision

Inquiry held on 18, 19 and 30 December 2013

Site visits made on 20 and 30 December 2013

by John Woolcock BNatRes(Hons) MURP DipLaw MPIA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 January 2014

Appeal Ref: APP/X5210/A/13/2204277

4 St Augustine's Road, London NW1 9RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Godfrey against the decision of the Council of the London Borough of Camden.
 - The application Ref:2013/1210/P, dated 1 March 2013, was refused by notice dated 22 August 2013.
 - The development proposed is the erection of a five storey (Lower Ground Floor + 4) building containing nine apartments: 2 no. 2 bedrooms and 7 no. 3 bedrooms. [This was amended prior to the Council's determination of the application]
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Decision

1. I allow the appeal and grant planning permission for the erection of a five storey building comprising 9 residential units (4 x 2 bedroom and 5 x 3 bedroom flats) (Class C3) at 4 St Augustine's Road, London NW1 9RN in accordance with the terms of the application Ref:2013/1210/P, dated 1 March 2013, as amended, subject to the conditions set out in the Schedule of Conditions attached to this decision.

Preliminary matters

2. The application form states that the applicant is Mr Paul Godfrey and that the Company name is Zen Developments. The Council considered an amended scheme for the erection of a five storey building comprising 9 residential units (4 x 2 bedroom and 5 x 3 bedroom flats) (Class C3).¹
3. The appeal site lies within Camden Square Conservation Area. I am required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (hereinafter the 1990 Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
4. An appeal against the refusal of an application for the erection of a basement and part 3, 4 and 5 storey building to create 9 residential units (in Use Class C) and associated disabled parking and landscaping on this site was dismissed in 2010.² The appellant considers that the current scheme (referred to as Scheme A at the Inquiry) overcomes the previous Inspector's objections.

¹ There are some discrepancies in the drawing numbers cited in the Council's decision notice and in the SoCG, but this matter was clarified at the Inquiry and in ID12.

² Appeal Ref:APP/X5210/A/09/2110690.

However, the Council refused the application, against officer recommendation for approval, for nine reasons. The first of which provides that the proposed development, by reason of its scale, massing and detailed design, would appear as an unsympathetic addition to the street scene and would fail to achieve the necessary quality of architectural design befitting of this prominent site, and as such would neither preserve nor enhance the character and appearance of the conservation area. The Council advised that reasons for refusal two to nine concerned matters that could be overcome by means of a planning obligation.

5. If I was minded to find against the proposed development (Scheme A) I was invited by the appellant, by letter dated 10 December 2013, to consider an amended scheme (Scheme B).³ I heard submissions about this and ruled that the Inquiry would proceed on the basis that it would hear evidence about both schemes, and that I would deal with this in my decision. I have, for the reasons set out below, found Scheme A to be acceptable, and so it is not necessary for me to deal further with Scheme B.
6. A unilateral undertaking, dated 19 December 2013, provides for a possible financial contribution towards affordable housing were the viability of the scheme to change, and for a contribution if additional units or floorspace were to be provided.⁴ It also provides for car-free dwellings, and includes financial contributions towards environmental improvements, education, public open space and highways on commencement of the development that is the subject of this appeal. Provisions for a Construction Management Plan, Energy Efficiency and Renewable Energy Plan and Sustainability Plan are also included. However, a requirement for a contribution towards sustainable infrastructure for an electric car charging point was not pursued at the Inquiry because the Council no longer considers that this would be necessary.⁵ The Council was satisfied at the Inquiry that the obligation would overcome reasons for refusal two to nine of its decision.

Main issue

7. The main issue in this appeal is whether the development would preserve or enhance the character or appearance of Camden Square Conservation Area.

Reasons

Character and appearance

8. The appeal site is a triangular area of land sited on a prominent corner location at the junction of Agar Grove, St Augustine's Road and Murray Street. It originally contained a pair of villas, but these were demolished in 1898 after the widening of the tunnel and railway, which runs beneath the western corner of the appeal site. It is currently vacant and enclosed by a 1.8 m high brick wall.
9. The Camden Square Conservation Area Appraisal and Management Strategy 2011 (CAAMS) states that the area is primarily a nineteenth century inner London suburb of planned development with a gridded street layout.

³ Application No.2013/5863/P for Scheme B was determined by the Council after the date for exchange of proofs of evidence for the appeal. Scheme B is 1.2 m lower than Scheme A and has amended fenestration. [ID5.1-5.4]

⁴ ID1.

⁵ ID5.3 paragraph 6.3.

However, construction of the railway, wartime damage and later infill development have all contributed to the evolution of the area. The CAAMS refers to the appeal site as a vacant area that fails to define the entrance, and mars the view from the south and east. It also states that it lies within an area that continues to change and needs particular care both to conserve it and to allow it to evolve. The CAAMS refers to variety in scale, with the overall impression of homogeneity created by the distinctive roofscape and the ordering of the elevations in coherent groups. It was apparent from my site visits that this applies to St Augustine's Road and Agar Grove, where there are some variations in scale and detailing, but also a degree of cohesiveness that results from the alignment, form and materials of the villas.

10. The Council and the appellant agree that the site is a gateway location marking the entrance to the conservation area, and that its derelict appearance makes a negative contribution to the character and appearance of the conservation area.⁶ I note that it has been a problem site for the Council in the past because of unauthorised uses. The site is currently open and its boundary wall is a feature in the local streetscape. These are factors which, to some extent, limit its impact as a detractor to the character and appearance of the area. However, it appears as a gap site in the local townscape on an important corner, and so makes a negative contribution to the area. This does not mean that any building on the site would be an improvement that would enhance the area. Possible harm could arise from a lost opportunity to achieve a more appropriate building for this key site in the conservation area.
11. Camden Square Conservation Area Advisory Committee (CAAC) acknowledged by letter dated 16 June 2013 that this is a particularly challenging proposal, elements of which have attracted divergent views within the CAAC team of specialist advisors, especially with respect to style. CAAC then accepted that, although bulkier than its neighbours, the proposal suits the prominent position and is not too overwhelming, but had concerns about fenestration details, considered that the justification for the slight curve of the frontage on St Augustine's Road was weak, and that the street elevations would be bland. In its letter dated 24 September 2013 CAAC highlighted its critical concerns as the inappropriateness of the overall bulk of the development, and the failure to relate the scale, proportion and rhythm to neighbouring buildings. The Camden Square Neighbourhood Association supports this view. The residents of Belvard Point submit that the proposal would appear blocky, with a horizontal emphasis and curved frontage to St Augustine's Road that would not provide the visual cohesiveness necessary for appropriate development of the site.⁷
12. The proposed building would be larger than neighbouring buildings, but the Council does not dispute that its footprint would be valid. It seems to me that concerns about the height of the building should properly take into account that this is a prominent corner location, where a more substantial building than its neighbours might be appropriate. In this case there is a considerable expanse of open space to the west of the proposed building, comprising the area which cannot be developed because of the railway tunnel, along with a wide road junction. The height of the proposed building on the appeal site would be proportionate to the open space in front of it. I consider that its

⁶ ID6 paragraph 1.4.

⁷ ID7.

height and bulk would reasonably complement its immediate setting (Views 2 and 3).⁸ In views west down St Augustine's Road (View 4) the proposed building would rise above the shallow hipped roofs of Nos.6/8 and 10/12, but would appropriately mark the end of the road. In views west along Agar Grove (View 1) the proposed building would not appear as a disproportionate addition to the street scene by reason of its height or bulk. The off-centre recess or indent above lower ground level in the southern elevation would help to relate the building to the width of its neighbours in Agar Grove. Furthermore, a building of these proportions would not be out of keeping with other development within the conservation area, where it was apparent from my site visits that some buildings in corner locations are larger than the buildings contained within the adjoining streets. I find no reason to reject the scheme by reason of its scale and massing. I turn next to concerns about detailed design.

13. The Council is concerned about the elevations of the building, including details of fenestration. In particular, it considers that the door and windows above it, in the St Augustine's Road elevation, would be so close to the edge of the building that the design would appear 'lop sided', and that the depth of walling below the parapet on the Agar Grove frontage would be uncharacteristic, such that the scheme would bear no resemblance to the symmetrical and central brickwork on the pairs of villas. However, in my view the proposed fenestration would draw on the pattern within the area, but apply it appropriately to a modern building. I do not consider that the solid to void ratio in the elevations would appear out of place, or that asymmetry would be inappropriate for this corner building.
14. The Council is critical of the western elevation of the proposed building because of its balconies, and the large gable with oversized arched window, for which it considers there to be no precedents in the conservation area. However, other modern buildings in the area have balconies, for which there is some policy support. The proposed balconies would provide useful outdoor amenity space for the units. The stucco gable end would take its cue from the front elevations of the five villas on the opposite site of St Augustine's Road. I consider that an outward looking appearance would be an appropriate design solution for this elevation, and that the scheme would read as a legible continuation of the streetscape and a celebration of this corner. The gentle curve of the building would reflect the alignment of St Augustine's Road into the junction, and would add to the design of the building as a corner feature.
15. The building would have a large roof form with terrace windows set back from the parapet. But it would not unduly affect the local roofscape, and the faux chimney pots above the lift would not look out of place. Concerns about the lift overdrive could be addressed by a condition requiring implementation in accordance with the approved drawings. The Council considers that the boundary treatment should be low level, so as to provide views of front gardens and elevations. However, the existing wall is consistent with other walls in the area near to the railway line. It would also provide some privacy for residential amenity areas. I note that the CAAMS states that the loss of original boundary walls would be resisted. The solid form of the portico would not be inappropriate given the variation in porches and porticos along the road.

⁸ Views 1-4 Appellant's Appendix 11.

16. The design detail for this modern building would draw upon features and patterns that are characteristic of the conservation area and evident within the local context. I do not consider that it would fail to relate to the scale, proportion and rhythm of neighbouring buildings. Taking into account all the evidence before the Inquiry, I find that the appeal scheme would be a thoughtful design that would be appropriate for this corner location and entrance to the conservation area.
17. On the main issue, I find that the proposed development would enhance both the character and the appearance of Camden Square Conservation Area. This enhancement would keep the conservation area safe from harm, and so would also preserve its character and appearance.
18. I am required to decide this appeal having regard to the development plan, and to make my determination in accordance with it, unless material considerations indicate otherwise. The development plan includes The London Plan, Camden Core Strategy 2010 (CS) and Camden Development Policies (DP). The proposal accords with The London Plan because it would optimise the housing output from this site, and would comply with relevant quality and design requirements.
19. I find that the proposed development would accord with the provisions of Policy CS14 concerning the Council's commitment to ensuring that Camden's places and buildings are attractive, safe and easy to use, and that the proposal would respect local context and character, and preserve and enhance the conservation area. The scheme has taken into consideration the matters set out in Policy DP24 and would be of the highest standard of design. Considerable time was taken at the Inquiry concerning the application of Policy DP25. This sets out requirements in order to maintain the character of Camden's conservation areas, including only permitting development that preserves and enhances the character and appearance of the area.⁹ The Council argues that the appeal scheme would cause harm to the conservation area and so would not preserve it, but if it did so, it would still be contrary to the development plan because it would not enhance it. In the appellant's submission Policy DP25 can only sensibly be applied and interpreted in line with the requirements of the 1990 Act. However, if Policy DP25 does set a determinative higher bar than the statutory requirement, then it would be a bar that I have found that this scheme would surpass. Any tension between development plan policy and the statutory requirement would make no difference to the outcome in this case.
20. The scheme would accord with the provisions of the *National Planning Policy Framework* concerning heritage assets. The development proposal should be approved in accordance with the first bullet point concerning decision-taking in paragraph 14 of the *Framework*. I find that the scheme would benefit from the presumption in favour of sustainable development that is at the heart of the *Framework*.

Other matters

21. I have no reason to doubt that the provisions of the obligation overcome the Council's other objections to the proposal, and accord with relevant

⁹ The supporting text at paragraph 25.2 refers to development that preserves and enhances the special character or appearance of the area.

requirements and policy. I have taken into account all the other matters raised in the evidence, including the likely effects on the living conditions of neighbours.¹⁰ Subject to the imposition of appropriate planning conditions the scheme would not have an unacceptable adverse effect on the residential amenity of those living nearby. There is local concern about nine flats adding to parking pressure on local roads, but the obligation provides that the development would be car-free housing. Neither these, nor any of the other matters raised, are sufficient to outweigh my conclusions on the main issue, which have led to my decision on this appeal.

Conditions

22. The Council and the appellant agreed conditions that should be imposed if the appeal were to be allowed.¹¹ I have considered the need for these and their wording in the light of the advice contained in Circular 11/95 *The Use of Conditions in Planning Permissions*.
23. In addition to the standard commencement period condition (Condition 1), it would be necessary for external materials and detailing to be approved in the interests of the appearance of the area (Condition 2). For similar reasons, a landscaping scheme would be required (Conditions 3 and 4). Details would also need to be approved for waste and recycling storage areas and for storing cycles (Conditions 5 and 6). Control of any piling would be necessary to safeguard the amenity of the area (Condition 7) and measures taken to protect a roadside tree (Condition 8). Details of photovoltaic cells, acoustic glazing and ventilation would need to be submitted for approval as insufficient detail is provided in the application (Conditions 9 and 10). For safety reasons measures would be necessary to control excavations near to the railway tunnel (Condition 11). Windows in the rear staircase would need to be obscured glazed and fixed shut so as to prevent overlooking and loss of privacy for neighbouring occupiers (Condition 12). Lifetime homes features and facilities would need to be secured to provide for the needs of future occupiers and to accord with relevant policy (Condition 13). Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans for Scheme A, for the avoidance of doubt and in the interests of proper planning (Condition 14).

Conclusions

24. The proposal would comply with the development plan, and there are no material considerations here which would justify a determination other than in accordance with it. With regard to my statutory duty under the 1990 Act, I have found that the proposed development would enhance both the character and the appearance of Camden Square Conservation Area. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

John Woolcock
Inspector

¹⁰ Including the permitted scheme for a dwelling at 27A Agar Grove at ID13.

¹¹ ID16.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Detailed drawings, or samples of external materials, in respect of the following, shall be submitted to and approved in writing by the local planning authority before the relevant part of the work is begun:
 - (a) Typical details of new fencing at a scale of 1:10, including materials and finish.
 - (b) Plan, elevation and section drawings, including jambs, head and cill, of all windows, and window, door openings and lift overrun at a scale of 1:10 with typical moulding, architrave and glazing details at a scale of 1:1.
 - (c) A sample panel of all facing materials should be erected on-site and approved in writing by the local planning authority before the relevant parts of the work are commenced and the development shall be carried out in accordance with the approval given.
 - (d) A sample panel of the proposed facing brick and brick boundary walls shall be erected on-site and approved in writing by the local planning authority before the relevant parts of the work are commenced and the development shall be carried out in accordance with the approval given. The panel must include facing brickwork demonstrating the proposed colour, texture, face-bond and pointing.

The relevant part of the works shall then be carried in accordance with the approved details.
- 3) No development shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved in writing by the local planning authority. Such details shall include details of any proposed earthworks including grading, mounding and other changes in ground levels. The relevant part of the works shall not be carried out otherwise than in accordance with the approved details.
- 4) All hard and soft landscaping works shall be carried out in accordance with the approved landscape details, prior to the occupation for the permitted use of the development or any phase of the development, whichever is the sooner. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.
- 5) Before the development commences details of the location, design and method of waste storage and removal including recycled materials, shall be submitted to and approved in writing by the local planning authority. The facility as approved shall be provided prior to the first occupation of any of the units hereby permitted and thereafter permanently retained.
- 6) Before the development commences, details of a secure and covered cycle storage area for 18 cycles shall be submitted to and approved in writing by the local planning authority. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the units hereby permitted and thereafter permanently retained.

- 7) Piling or any other foundation designs using penetrative methods shall not be permitted unless a piling method statement detailing the type of piling to be undertaken and the methodology by which such piling will be carried out including measures to prevent and minimise the potential for damage to subsurface water or sewerage infrastructure, and the programme for the works, has been submitted to and approved in writing by the local planning authority. The piling shall be undertaken in accordance with the approved method statement.
- 8) Prior to the commencement of any works on site, details demonstrating how trees to be retained shall be protected during construction work shall be submitted to and approved in writing by the local planning authority. Such details shall follow guidelines and standards set out in BS5837:2012 *Trees in Relation to Construction*. 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 the approved protection details.
- 9) Prior to first occupation of the units hereby permitted, detailed plans showing the location, extent and design of photovoltaic cells to be installed on the building shall have been submitted to and approved in writing by the local planning authority. The cells shall be installed in full accordance with the approved details and thereafter permanently retained and maintained in accordance with the manufacturer's instructions.
- 10) Before the development commences details of a scheme for an appropriate acoustic glazing system and acoustically rated passive air intake system for the building shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the use shall thereafter not be carried out other than in complete compliance with the approved scheme.
- 11) Prior to the commencement of works, full details of all excavations and earthworks to be carried out within 10 metres of the railway undertaker's boundary fence shall be submitted to and approved in writing by the local planning authority and all such works shall only be carried out in accordance with the approved details.
- 12) Prior to occupation of any of the units hereby permitted, windows to the rear staircase shall be obscure glazed and fixed shut, and thereafter permanently retained.
- 13) The lifetime homes features and facilities, as indicated on the drawings for Scheme A in the Schedule of Plans and in the Schedule of Other Application Documents attached to this decision shall be provided in their entirety prior to the first occupation of any of the units hereby permitted and shall thereafter be retained.
- 14) The development hereby permitted shall be carried out in accordance with the approved plans for Scheme A listed in the Schedule of Plans included in this decision.

SCHEDULE OF PLANS

<u>Scheme A Plans</u>	<u>Scheme B Plans</u>
DR-0100 P02	DR-0100 P03
DR-0101 P01	DR-0101 P03
DR-0102 P02	DR-0102 P03
DR-0103 P03	DR-0103 P04
DR-0104 P03	DR-0104 P04
DR-0105 P02	DR-0105 P03
DR-0106 P02	DR-0106 P03
DR-0401 P02	DR-0401 P03
DR-0402 P02	DR-0402 P03
DR-0601 P02	DR-0601 P03
DR-0602 P02	DR-0602 P03
DR-0603 P02	DR-0603 P03
DR-0604 P02	DR-0604 P03
DR-0610 P02	DR-0610 P03

SCHEDULE OF OTHER APPLICATION DOCUMENTS

Design and Access Statement by CZWG Architects dated February 2013.
 Daylight and Sunlight Report by GL Hearn dated 20th February 2013.
 Code for Sustainable Homes Report by Callao Housing Consultancy dated January 2013.
 Energy Statement by SRS Partnership dated 27th February 2013.
 Planning Statement by Cunnane Town Planning dated February 2013.
 Viability Assessment by Douglas Birt Consulting dated June 2013.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Emmaline Lambert of Counsel	Instructed by the Solicitor for the Council.
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She called

Mortimer MacSweeney Dip Arch RIBA MA Dip Urban Design	Senior Conservation Officer.
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Ben Le Mare BA(Hons) MTCP MRTPI	Senior Planning Officer.
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FOR THE APPELLANT:

Richard Wald of Counsel	Instructed by Cunnane Town Planning.
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He called

Piers Gough CBE RIBA Hons RIAS RA AA Dip Hon D Univ Middlesex Hon Fellow Queen Mary Univ London	Founding Partner CZWG Architects.
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Jack Warshaw BArch DipTP AADipCons RIBA RTPI IHBC RPUDG	Founding Director Conservation Architecture & Planning.
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Joseph Cunnane MRTPI	Senior Partner, Cunnane Town Planning.
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INTERESTED PERSONS:

Hugh Lake	Secretary of Camden Square Conservation Area Advisory Committee.
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Cllr Phil Jones	Ward Councillor.
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Dave Harris BSc(Hons) Dip Management Studies MRTPI	Acting on behalf of residents of Belvard Point, Murray Street, Camden.
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DOCUMENTS SUBMITTED AT THE INQUIRY (ID)

Document	1	Unilateral undertaking dated 19 December 2013.
Document	2	Transcript of Planning Committee Webcast 15 August 2013.
Document	3	Bundle of documents, including photographs of locality, annotated aerial photograph, English Heritage guidance about new buildings in Conservation Areas, photographs of Central School of Speech and Drama, and Lift Manufacturer's Details.
Document	4	Section 69 and 72 Planning (Listed Buildings and Conservation Areas) Act 1990.
Document	5.1	Scheme B Application 2013/5863 - Extracts from Design and Access Statement.
	5.2	Representations to Council about application.
	5.3	Delegated Report.
	5.4	Decision Notice dated 26 November 2013.
Document	6	Statement of Common Ground dated 9 and 18 December 2013.
Document	7	Comments on appeal by Dave Harris on behalf of residents of Belvard Point.
Document	8	Joint Report on the Examination into the Camden Core Strategy and the Development Policies DPD, 31 August 2010.
Document	9.1	Appeal decision Ref:APP/X5210/A/12/2177819 and E/2177813.
	9.2	Appeal decision Ref:APP/X5210/A/12/2181542.
	9.3	Appeal decision Ref:APP/X5210/A/13/2195530.
Document	10	Extract from Camden Development Policies Proposed Submission concerning Policy DP25.
Document	11	Letter from English Heritage dated 7 May 2010 concerning amendments to draft Policy DP25.
Document	12	Agreed list of drawings for Schemes A and B.
Document	13	Bundle of documents concerning planning permission for erection of a dwelling at 27A Agar Grove.
Document	14	Camden Core Strategy Policy CS14, and Development Policies DP24 and DP25.
Document	15	Bundle of photographs and annotated plans of the conservation area submitted for unaccompanied site visit.
Document	16	List of agreed suggested conditions.
Document	17	Closing Submissions on behalf of the Council. Including <i>South Lakeland District Council v SSE</i> House of Lords January 1992.
Document	18	Closing Submissions on behalf of Zen Developments Ltd.