

**PLANNING SERVICES**

**TOWN & COUNTRY PLANNING (DETERMINATION BY INSPECTORS)  
(INQUIRIES) RULES 2000**

# **SUMMARY PROOF OF EVIDENCE**

**Ben Le Mare BA (Hons) MTCP MRTPI**

**FOR PUBLIC INQUIRY COMMENCING ON 18 December 2013**

**APPEAL SITE**

4 St. Augustine's Road, London, NW1 9RN

**APPELLANT**

Mr Paul Godfrey

---

**SUBJECT OF APPEAL**

Appeal against London Borough of Camden's refusal of Planning Permission for the 'Erection of five storey building comprising 9 residential units (2x 2 bedroom and 7x 3 bedroom flats) (Class C3).'

---

**COUNCIL REFERENCE:** 2013/1210/P

**PLANNING INSPECTORATE REFERENCE:** APP/X5210/A/13/2204277/NWF

## **1.0 Qualifications and professional experience**

- 1.1 I hold a Bachelor of Arts in Town and Country Planning, with Honours, and a Masters in Town and Country Planning. Both qualifications were achieved at the University of West of England, Bristol. I have been a licentiate Member of the Royal Town Planning Institute since 2006.
- 1.2 I have over seven years experience working as a professional Town Planner for Local Planning Authorities, and two years for King Sturge LLP - an international property consultancy. Since June 2012 I have been working as Senior Planning Officer in Development Management in Camden Council's Local Planning Authority.

## **2.0 Structure of the proof**

- 2.1 In my evidence I provide a summary of the application which is the subject of the appeal and the process undertaken leading to the refusal. I identify and summarise the policy framework under which the Council's decisions were made. I deal with the Council's main reasons for refusal and also the matters to which it will be necessary to cover under a planning obligation.
- 2.2 My evidence is divided into seven sections:
- Section 1: (Subject of appeal)
  - Section 2: (Planning history)
  - Section 3: (Planning policy and guidance)
  - Section 4: (Site and surroundings)
  - Section 5: (Assessment of proposal)
  - Section 6: (S106 planning obligations)
  - Section 7: (Conditions)
  - Section 8: (Conclusion)
- 2.3 Mortimer MacSweeney, Senior Conservation Officer with Camden Council. This evidence will support the Council's Refusal Reason 1.

### **3.0 Relevant planning policy and guidance**

- 3.1 National, regional and local planning policy and guidance all require that development should seek to preserve and enhance the character and appearance of the conservation area and mitigate against the impact of development through planning obligations. My proof refers to the relevant paragraphs of the National Planning Policy Framework (NPPF), the policies of London Plan and the policies of London Borough of Camden's LDF. Additionally, my proof references the Council's Camden Planning Guidance (2011 & 2013) and the Camden Square Conservation Area Appraisal & Management Strategy (2011).

### **4.0 Site and surroundings**

- 4.1 The application site is a triangular site at the junction of St Augustine's Road, Agar Grove and Murray Street. It is enclosed by a 2m high brick wall facing St Augustine's Road and Agar Grove and backs onto the side boundaries of 4 St Augustine's Road and 27 Agar Grove. It lies within the Camden Square Conservation Area and is identified as making a negative contribution to the character and appearance of the conservation area.
- 4.2 Agar Grove, to the south and east of the site, consists of three-storey semi-detached Victorian villas raised on basements and dating from the 1860s. Both sides of the street have strong building lines and unity of design, although this rhythm is interrupted by two long 1950s blocks of flats at nos. 33-47. St Augustine's Road has a similar uniformity comprising three storey semi detached Victorian villas with stuccoed fronts, dormer windows and raised entrances.
- 4.3 The application site originally housed a pair of 19<sup>th</sup> century villas with triangular front garden, which were demolished after the widening of the railway in 1898. It is currently a vacant site with no authorised use, although there have been some unauthorised uses in recent past such as a waste transfer and storage use, and car and caravan parking. The most recent lawful use of the site was as a builders yard on a temporary planning consent which has now expired.

## **5.0 Assessment of the proposal**

- 5.1 It is my view that the appeal scheme fails to meet national and regional planning policy and guidance, and the Council's objectives as expressed in the policies contained within the London Borough of Camden Local Development Framework (November 2010) and Camden Planning Guidance. It is my view that there are no material considerations that indicate otherwise.

### **REFUSAL REASON 1**

- 5.2 Reason 1 of the Council's refusal of planning permission for the development states 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. As such it would neither preserve nor enhance the character and appearance of the Camden Square Conservation Area contrary to policies CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies."*
- 5.3 This reason for refusal is expanded upon in Mortimer MacSweeney's Proof of Evidence, a Senior Conservation Officer at the London Borough of Camden. I have read his proof of evidence and agree with its contents. The proposal does not preserve and enhance the Conservation Area and therefore does not comply with the Development Plan. It causes harm to the Conservation Area which is a designated heritage asset.
- 5.4 The development fails to conserve the designated heritage asset, Camden Square Conservation Area, in a manner appropriate to its significance, so that it can be enjoyed for its contribution to the quality of life of this and future generations, a requirement which is one of the Core Planning Principles of the NPPF.

- 5.5 The local character of the area is characterised as a planned estate development of paired villas, terrace houses and with a few individual villas. In this context the scale and character of St Augustine's Road has a high degree of uniformity. The proposed building fails to respond sufficiently to local character and history, and reflect the identity of local surroundings as required by paragraph 58 of the NPPF.
- 5.6 The development is of significantly contrasting massing and design to the historic villas of its immediate context. It therefore fails to seek to promote or reinforce local distinctiveness consistent with paragraph 60 of NPPF.
- 5.7 With reference to paragraphs 65 and 134 of the NPPF, the harm caused to this designated heritage asset, Camden Square Conservation Area, is assessed by my colleague as Senior Conservation Officer with Camden Council. The public benefits of this development are acknowledged as providing housing, which in any case is likely be future use of the site. The scheme would bring no wider public benefits such as an on-site provision of affordable housing or providing new community uses / public open space within the local area. The site would be utilised and there will be 9 flats provided for market housing but these are not public benefits that can outweigh the harm caused to the designated heritage asset
- 5.8 With reference to paragraph 137 of the NPPF this is acknowledged as an opportunity site for development within the conservation area to enhance and better reveal its significance. If a design proposal came forward that preserved those elements that make a positive contribution to the conservation area, or better reveal its significance, it would be favourably considered.

## **6.0 Section 106 Obligations**

- 6.1 As detailed above and in the Council's Rule 6 Statement of Case reasons for refusal 2 - 9 of the Council's Decision Notice may be addressed by an appropriate Section 106 Legal Agreement attached to any planning permission which might be granted on appeal or in conjunction with a subsequent revised scheme. This is without prejudice to the matters raised in the principal Reason for Refusal (No. 1).
- 6.2 Planning obligations are either agreements negotiated in the context of planning applications between local planning authorities and persons with a registerable interest in a piece of land or a unilateral undertaking made by a landowner. Their purpose is to make acceptable development which would otherwise be unacceptable in planning terms. Obligations can be used to prescribe the nature of a development, to secure a contribution from a developer to compensate for loss or damage created by a development or to mitigate against a development's impact. Current government guidance on the application of Section 106 is contained within Circular 05/2005. The Community Infrastructure Levy (CIL) Regulations 2010 came into effect on 6 April 2010. 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.
- 6.3 In terms of the financial contributions secured under the legal agreement the Council has an obligation to apply those contributions towards the purpose for which they were received. Circular 11/95 (paragraph 83) advises that financial contributions cannot be secured by condition. The Council has therefore sought to secure contributions by s106 agreement.
- 6.4 The Council and appellant are in the process of agreeing a Section 106 legal agreement which would seek to resolve reasons for refusal 2 – 9.

## **7. Conditions**

- 7.1 A total of 14 conditions were agreed between the Council and the Appellant prior to the Council's refusal of the application.

## **8.0 Conclusion**

- 8.1 The appeal is against the London Borough of Camden's refusal of planning permission for the erection of five storey building comprising 9 residential units (2x 2 bedroom and 7x 3 bedroom flats) (Class C3).
- 8.2 The primary Reason for Refusal (1) states 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. As such it would neither preserve nor enhance the character and appearance of the Camden Square Conservation Area. This is expended upon in Mortimer MacSweeney's Proof of Evidence.
- 8.3 The public benefits of this development are acknowledged as providing housing. The public benefits of this development are acknowledged as providing housing, which in any case is likely be future use of the site. The scheme would bring no wider public benefits such as an on-site provision of affordable housing or providing new community uses / public open space within the local area. The site would be utilised and there will be 9 flats provided for market housing but these are not public benefits that can outweigh the harm caused to the designated heritage asset.
- 8.4 This proof provides robust justification for Council's case in respect of reasons for refusal 2 - 9 of the application for planning permission and demonstrates how each required planning obligation complies with CIL Regulations and the NPPF.
- 8.5 For the above reasons, the Inspector is respectfully requested to dismiss the appeal.