

## Appeal Decision

Site visit made on 18 June 2014

**by Peter Rose BA MRTPI DMS MCMI**

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

**Decision date: 4 July 2014**

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**Appeal Ref: APP/X5210/A/14/2213648**

**46 Howitt Road, London NW3 4LJ**

- 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 & Mrs Bradbury against the decision of the Council of the London Borough of Camden.
  - The application Ref 2013/1297/P, dated 24 February 2013, was refused by notice dated 6 November 2013.
  - The development proposed is construct a new basement with a lightwell to the front and the rear of the property. This addition shall create sufficient space for 3 HMO units. The use would be classified as C4 (Houses in multiple occupation). The proposal also shows an alteration to the existing rear single storey extension.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The Council has explained that its decision notice contains an omission in relation to a further ground for refusal. This relates to issues of land stability and ground water.
3. The Council's failure to address this matter in its decision notice is regrettable and, whilst the authority has apologised for the administrative error, the appellants consider that it should not be taken into account. Nevertheless, the additional reason does raise significant matters relevant to the Development Plan, and this has been raised by a neighbouring third party in any event. The matter was raised as part of the Council's statement and the appellants have had the opportunity to comment further. I am therefore satisfied that the appellants' interests would not be prejudiced by having regard to this further objection.

### Main Issues

4. The main issues are the effect of the proposed development upon:
  - (a) the character and appearance of the host property and the surrounding area with particular regard to the rear lightwell and as to whether the development would preserve or enhance the character or appearance of the Belsize Conservation Area;

- (b) the living conditions of neighbouring occupiers with regard to possible disturbance arising from the construction work and with regard to the provision of refuse facilities;
- (c) the living conditions of future occupiers with regard to the size of the units, outlook and privacy, potential for noise disturbance, and facilities for cycle and refuse storage;
- (d) local parking stress and congestion;
- (e) local housing supply with regard to the mix of units proposed;
- (f) land stability and ground water.

## **Reasons**

### *Character and appearance*

5. The appeal site comprises a large two-storey terraced house with basement and roof level accommodation. The property lies within a quiet suburban road and forms part of the Belsize Conservation Area. From the evidence before me, there is some disagreement between the main parties regarding the overall use of the property. The appellants indicate it is a house in multiple occupation, whilst the Council suggests the current use is more akin to a property sub-divided into self-contained residential units.
6. The rear garden is relatively small and the proposed lightwell and railings would be a prominent feature relative to the space available. Whilst there is variation in the form of nearby gardens and in the details of the rear elevations, the relatively large lightwell and its accompanying railings and pedestrian bridge would not appear as a feature in-keeping with the overall original style of the Conservation Area. Although exposure of the rear garden is limited, it could still be seen from nearby windows and gardens, and the extent and form of the proposed arrangement would combine to create a visually discordant addition inconsistent with the setting.
7. I find, therefore, that the proposed development would fail to preserve or enhance the character and appearance of the Belsize Conservation Area. Even so, I consider that the appeal building and the relative scale of development proposed are sufficiently modest such that the harm to the significance of the Conservation Area would be less than substantial. Thus, it is necessary to consider, in accordance with the National Planning Policy Framework (the Framework), whether there would be public benefits to the scheme sufficient to outweigh that harm. I have noted that the lightwell would be part of a scheme which would provide additional residential accommodation for the local housing stock, but I have found significant failings in the quality of the accommodation to be provided as set out further in this decision. Accordingly, I find no overall public benefits sufficient to outweigh the likely harm.
8. I therefore conclude that the proposed development would be harmful to the character and appearance of both the host site and the surrounding area. Accordingly, the development would be contrary to Policy CS14 of the London Borough of Camden Local Development Framework Core Strategy 2010 (the Core Strategy), and to Policy DP24 and Policy DP25 of the London Borough of Camden Local Development Framework Development Policies document 2010 (the DPD). These seek, amongst other matters, to ensure that

development preserves and enhances Conservation Areas and that buildings are of a high quality. I find these policies broadly consistent with the Framework which places great importance upon high quality design and local distinctiveness. The Framework also recognises that heritage assets such as Conservation Areas are an irreplaceable resource and requires them to be conserved in a manner appropriate to their significance.

*Living conditions of neighbouring occupiers during construction*

9. The proposed works in close proximity to other homes could give rise to disturbance and inconvenience for nearby residents. A Construction Management Plan (CMP) was submitted to address such impacts, but the Council has highlighted various shortcomings in its content.
10. Whilst noting the Council's preference for a planning obligation to address such matters, I am mindful of the advice set out in both the Framework and in the government's Planning Practice Guidance (the Guidance). In particular, I do not consider the circumstances of the scheme to be such that most impacts could not be satisfactorily addressed through a planning condition. Although the Council does raise matters outside the application site, particularly relating to the highway, it is not clear that such impacts could not be mitigated by other non-planning powers available to the Council. Given the relatively limited scale of the development, I am not satisfied, on balance, that a planning obligation would be either necessary or reasonable in this instance. If the scheme were to be allowed, other shortcomings in the existing CMP as identified by the Council could be addressed by a condition requiring revised details to be agreed prior to development.
11. Notwithstanding the absence of a legal agreement, I therefore conclude that the proposed development would not be harmful to the living conditions of neighbouring occupiers during construction such as to justify the withholding of planning permission. Accordingly, the development would not be contrary to Policy CS5 of the Core Strategy, or to Policy DP26 or to Policy DP28 of the DPD. These seek, amongst other matters, to protect the amenity of residents.

*Living conditions of neighbouring occupiers with regard to the absence of refuse facilities*

12. Given that the scheme proposes a front lightwell and the host property enjoys no side access, there would be little obvious potential to accommodate satisfactory facilities in-curtilage for refuse storage. I consider such facilities to be essential if the living conditions of neighbouring occupiers and the attractive residential environment of the wider Conservation Area are not to be harmed through ad-hoc accumulation of rubbish on-street and elsewhere.
13. I therefore conclude that the proposed development would be harmful to the living conditions of neighbouring occupiers by reason of the absence of satisfactory refuse storage facilities. Accordingly, the development would be contrary to Policy CS5 of the Core Strategy, and to Policy DP26 of the DPD. The proposal would also be contrary to the Framework which seeks to ensure a good standard of amenity for existing and future occupants of buildings.

*Living conditions of future occupiers*

14. Each of the units would be self-contained and would provide a floorspace considerably below the minimum size expected by the Camden Planning

Guidance 2 Housing for a 1-person unit. As such, each would provide highly confined living spaces.

15. Whilst each unit would have external openings, outlook would be limited. The front unit would be in close proximity to a facing lightwell wall and, although the rear units would not have walls in such close proximity, the basement outlook would still be restricted and would be overshadowed by the pedestrian bridge above. The rear units would also have the risk of some potential views between the units and of inward views from the bridge and rear garden behind.
16. The creation of three units in such a confined basement space would also have potential for noise disturbance between the units and it is unclear how that would be mitigated. It is also unclear how and where satisfactory facilities could be provided for cycle storage. The absence of adequate facilities for refuse storage is again relevant, and would serve to further undermine the living conditions of future occupiers.
17. I therefore conclude that the proposed development would be harmful to the living conditions of future occupiers with regard to the size of units proposed, outlook and privacy, potential for noise disturbance and with regard to facilities for cycle and refuse storage. Accordingly, the development would be contrary to Policy CS5 of the Core Strategy, and to Policy DP26 of the DPD. These seek, amongst other matters, to ensure that development provides an acceptable standard of accommodation.

*Parking stress and congestion*

18. In common with other properties in Howitt Road, the appeal site does not have the benefit of off-street parking space. The property lies close to Belsize Park station and local bus routes, and I saw at my visit that there appeared to be little capacity for on-street parking within the road. The additional units proposed would be likely to create additional demands for on-street parking and that, in turn, could impede the free and safe movement of vehicles and pedestrians in the vicinity. I note the proposal contains no formal mechanism to secure car-free housing so as to offset such potential impacts. Such an arrangement would also be consistent with the highly sustainable location.
19. I therefore conclude that the proposed development would be harmful to local parking stress and congestion. Accordingly, the development would be contrary to Policies CS11 and CS19 of the Core Strategy and to Policy DP18 of the DPD. These seek, amongst other matters, to ensure that development provides the minimum necessary car parking provision and that planning obligations support sustainable development and mitigate impacts.

*Local housing supply with regard to the mix of units proposed*

20. The Council's policies seek to provide mixed and inclusive communities in Camden, and this is to be achieved by various means, including by ensuring that a suitable range of dwelling sizes is provided in new development. Such 1-bedroom units as proposed do not register as either 'high' or 'very high' priorities within the Council's 'Dwelling Size Priorities Table' and, furthermore, all three units are of the same 1-bedroom form. The Framework also encourages authorities to provide a range of housing choice in accordance with local need.

21. Whilst the scheme would help to meet a lower priority need for 1-bedroom units, I find no reason why it would not be practicable for a development of the site to make a more appropriate contribution to the Borough's higher need priorities. I therefore consider that the proposed development would not add a suitable mix of housing units to the local housing supply. Accordingly, the development would be contrary to Policy DP5 of the DPD and to the Framework. These seek, amongst other matters, to ensure that housing development makes an appropriate contribution to meeting local housing need.

*Land stability and ground water*

22. The application has sought to address the structural and related implications arising from the basement excavation at a general level and significant information accompanies the submission. The Council refers to insufficient details having been provided and I particularly note the absence of more detailed site investigations. Nevertheless, it appears the Council is not objecting to the principle of excavation. I am satisfied that, should the development be acceptable on all other grounds, the undoubted need for further detailed site investigation and for accompanying mitigation measures could be dealt with by way of a planning condition precluding any development until such time as the outstanding concerns have been fully addressed.
23. I therefore consider that the proposed development would not be harmful to land stability and ground water. Accordingly, it would not be contrary to Policies CS5 and CS13 of the Core Strategy, or to Policies DP23, DP26 and DP27 of the DPD, or to the Camden Planning Guidance 4 Basements and Lightwells. These seek, amongst other matters, to ensure that such schemes maintain structural stability and avoid adversely affecting drainage.

**Other matters**

24. I have had regard to all other matters raised, including the representations of nearby residents. Concerns are raised regarding potential noise disturbance from the use and I note this is not identified as a reason for refusal by the Council. Nevertheless, given the increased intensity of the use as proposed, I acknowledge there could be potential for some additional disturbance for adjoining occupiers in this regard. Even so, I am unable to conclude from the evidence before me that disturbance would be of such a scale as to justify withholding planning permission on that basis.
25. I have noted that the Council raises no objection to the front lightwell or to works to the rear extension. I have little reason to disagree but, as those features are physically and functionally part of the overall scheme, a split decision would not be appropriate for consideration in this instance.
26. None of the other matters raised are of such significance, either individually or collectively, that they would outweigh the considerations that have led to my conclusions on the main issues.

**Conclusion**

27. For the above reasons, I conclude the appeal should be dismissed.

*Peter Rose*

INSPECTOR