
Appeal Decision

Hearing held on 2 April 2014

Site visit made on 2 April 2014

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 8 May 2014

Appeal Ref: APP/X5210/A/14/2211254

The Castle, 147 Kentish Town Road, London NW1 8PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by 147 Kentish Town Road Ltd against the Council of the London Borough of Camden.
 - The application Ref 2013/5568/P, is dated 20 August 2013.
 - The development proposed is the demolition of the existing former public house and erection of a building to provide A2/B1 on the basement/ground floors and 9 residential units on the upper floors.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The Council has indicated that, had it been in a position to determine the application, it would have been refused for reasons relating to: the loss of the existing building; the unacceptable effects of the proposed building on the surrounding area and residents and; the need for planning obligations.
4. The appellant has submitted 3 Unilateral Undertakings which seek to address the Council's concerns. However, the appellant does not agree that all the matters sought by the Council are justified and has excluded various items from 2 of the Undertakings.

Main Issues

5. The main issues in this appeal are;
 - The effects of the proposed new building on the character of the area
 - The effects of the proposed loss of the existing building
 - The effects of the proposal on the living conditions of neighbours
 - Whether the obligations are necessary and appropriate.

Reasons

The effects of the proposed new building on the character of the area

6. The appeal site sits at the junction of the busy Kentish Town Road with Castle Road. Kentish Town Road consists of numerous commercial uses at ground floor and it also appears that many upper floors are in commercial uses. In contrast, Castle Road is mainly residential in character, apart from a small number of commercial uses close to Kentish Town Road. It is notable that on this side of Kentish Town Road close to the appeal site the buildings are mainly of 3 storeys, although I note that the Kent Café has more floors but its height is similar to its 3 storey neighbours, and the former station is of 2 storeys height. There are taller buildings elsewhere on Kentish Town Road and Royal College Street.
7. The proposal would contain a basement and 5 floors above that and I note from the plans and the model provided at the Hearing that the upper parts of the building would be set in slightly from the line of the lower floors.
8. The building would present a long elevation onto Castle Road and it would appear significantly taller than its neighbour on Castle Road (even with the mansard roof extension, permission for which has now expired). It would also appear significantly greater in size than the properties on the opposite side of Castle Road. Notwithstanding the efforts that have been made to reduce the effects of the proposal by setting back at the upper levels, I consider that, within the context of this part of Castle Road, the proposal would appear uncharacteristically large, would appear out of place and would visually dominate the neighbouring buildings.
9. In relation to the effects on Kentish Town Road, whilst there are buildings of a similar size to the proposal, it is relevant in my consideration that the buildings on this side of the road for some distance appear to be of 3 storeys or a similar height. Notwithstanding the set backs described above, I consider that the contrast between the proposal and the immediate neighbouring buildings would be significant and the change in heights would appear abrupt between the proposal and the former station building (even with its permitted extension, as yet not built). Therefore, in relation to this issue, it is concluded that the proposal would have an unacceptable effect on the character of the area, contrary to the aims of Policies CS5, CS14 and DP24 of the Core Strategy and Development Policies, respectively.

The effects of the loss of the existing building

10. The existing building is in a poor state of repair and has been the subject of alterations. An appeal against an enforcement notice to rectify these alterations was largely unsuccessful and the notice was upheld (with some modifications). I have been provided with a copy of the decision letter dated 27 March 2014 (Ref APPX5210/C/13/2201362).
11. From the information and photographs available to me I can see that, until recently, the building formed an attractive feature within the local townscape. It is a Victorian building in the Italianate style with decorative plaster mouldings and a pleasant composition, and it enhanced this corner location.
12. The existing building is the subject of an Article 4 Direction which prevents its demolition without approval and the Council has included the building on its

draft Local List, which is due to be confirmed later this year, although the appellants have objected to this. In this context the Council considers that the building represents a non-designated heritage asset, as defined in the National Planning Policy Framework (the Framework). The national Planning Practice Guidance (PPG) states that local planning authorities may identify non-designated heritage assets and that these include buildings identified as having a degree of significance meriting consideration in planning decisions. It adds that in some areas local planning authorities identify some non-designated heritage assets as "locally listed". Taking this into account, it seems to me that local planning authorities have considerable discretion in considering what is a non-designated heritage asset and it would not necessarily rely solely on being "locally listed"; but that discretion should be exercised responsibly and in an informed way.

13. In its repaired state the building was a local landmark; it had an attractive design and is of some age (dating from the early/mid Victorian era). In addition it was stated by many at the Hearing that a public house has existed on this site for some considerable time, pre-dating the existing building; although the appellant points out that former public houses were located close-by and not on this precise site.
14. The recently upheld enforcement notice requires the re-instatement of a number of features, including the roof and many decorative plaster mouldings; therefore, I consider it appropriate for me to consider the contribution that the building would make after these works are undertaken. Having taken account of the evidence presented at the Hearing and the attractive design and age of the building, I consider that it has a degree of heritage interest which needs to be taken into account in determining this appeal. In the context of the proposal for a replacement building which I consider to be unacceptable, there is insufficient merit to outweigh the, albeit modest, heritage interest in the existing building. Therefore, the proposal would raise further conflict with the aims of Policies CS14 and DP24.

The effects of the proposal on the living conditions of neighbours

15. There are residential properties on the opposite side of Castle Road which have main room windows facing towards the appeal site. At present these windows face towards the 3 storey public house and the lower sections of building at the rear. As a result of the proposal these windows would face towards the considerable width of the new building, at 5 storeys in height.
16. I appreciate that efforts have been made, by the use of set backs and in the use of glazing, to reduce the effects of the size of the building. However, it is considered that the proposal would represent a considerable and unacceptable increase over what currently exists; an increase which would appear dominant and overbearing when seen from these residential properties opposite.
17. The appellant points out that the existing view over the rear of the site is unattractive and this would be much improved by the proposal. I agree that the existing view is unattractive but I do not consider that this is sufficient to justify a new building which would appear overbearing. The appellant has also undertaken a daylight and sunlight study which concludes that the proposal would have no unreasonable effects in relation to the amount of sunlight or daylight received at the nearby properties. However, this does not assess whether the building would appear overbearing or dominant, and does not

mean that it would not. Therefore, the proposal conflicts with the aims of Policies CS5 and DP26.

Whether the obligations are necessary and appropriate

18. Within its putative reasons for refusal, the Council has identified 9 subjects which it considers should be covered by planning obligations (Reasons 4 to 12). The appellant agrees that all are necessary and justified apart from those covered by reasons 5, 9 and 11, namely pedestrian/environmental improvements, highways works and, community facilities. Based on the evidence before me, I agree with the Council and the appellant that the matters covered in reasons 4, 6, 7, 8, 10 and 12 are relevant to the proposal and are matters which are appropriately included within the Undertakings.
19. In relation to pedestrian and environmental improvements, the Council's publication 'Camden Planning Guidance, Planning Obligations - CPG8' states that developments that lead to an increase in trips in the Borough have a cumulative impact on the public transport network and pedestrian flows and so the Council "may seek contributions to improve provision for pedestrian and cyclists as well as making the public realm more accessible and attractive". The Council added at the Hearing that improvements are needed to the public realm at the moment and the contribution sought could help in relation to this.
20. There is no evidence presented which sets out the likely trips and pedestrian movements of the existing authorised use of the building when compared to the proposed new building; there is no certainty that the proposal will actually generate more movement. In addition, CPG8 does not require an automatic payment but states that one "may" be sought. Furthermore, the Council state that the contribution sought would go towards existing deficiencies and so cannot be said to be needed to resolve matters arising directly from the proposal; no scheme of improvement has been identified. In all, it has not been demonstrated that this contribution is needed, how the figure is arrived at, nor how it would be spent. I conclude that it is not necessary and I shall not have regard to this obligation when concluding on this appeal.
21. In relation to the highways contribution, the Council has produced a schedule which lists 18 items which the Council consider should be resolved by the contribution. There is no evaluation of these items or why specifically they would be required, nor how much each of the items would cost. The only exception is the re-location of the post box with a cost of £2,500. However, there would appear to be no reason to move the post box and it is doubtful whether this would be the responsibility of the Council in any event. In these circumstances I cannot conclude that the contribution sought satisfies the tests in Regulation 122 of the CIL Regs.
22. With regard to community facilities, these are sought by the Council to contribute to education and training, libraries, policing, healthcare, community and youth facilities and public conveniences. CPG8 states that the need for contributions will be undertaken by considering the likely increase in demand for community facilities resulting from a development and the effect that this will have on existing provision. However, the Council has provided no evidential basis for the figure sought and no assessment has been made in this respect. Therefore, I am unable to conclude that the sum sought is necessary, relates to the development and is of an appropriate scale. As a consequence I shall not take this matter into account in determining this appeal.

Other Matters

23. The appellant states that the proposal would bring about a much needed improvement to the area and would bring valuable employment. In relation to the first point, I accept that the building is in a poor state but this has resulted in part from the owners' actions and should be remedied by compliance with the enforcement notice; in other respects, I do not consider that any other improvements outweigh the negative aspects of the proposal that I have set out. I similarly conclude that the benefits of job creation would not outweigh these negative matters.
24. The appellant stated that a scheme of this size is necessary as a smaller one would not be viable. However, no detailed assessment has been submitted which supports this and so I am unable to attach significant weight to it.
25. The appellant also stated at the Hearing that they are a good local employer that contributes to the local area and has been recognised locally and nationally. Whilst I have no reason to doubt these worthy statements, I have determined the appeal on its planning merits and so far as these matters relate to planning, I have included them in my assessment of the scheme.

Conclusions

26. I have taken careful account of all other matters raised at the Hearing and put in writing in relation to this appeal and I have noted that there is objection and support from some local people. However, I find nothing which leads to a different conclusion. As a consequence, the appeal is dismissed.

S T Wood

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

K Goodwin	CGMS
N Papas	Architect
A Paps	Architect
M A Bowering	Ringley

FOR THE LOCAL PLANNING AUTHORITY:

J Sheehy	Senior Planning Officer
M MacSweeney	Senior Conservation Officer

INTERESTED PERSONS: Who spoke at the Hearing

C Hill
T Lang
S Wild
P James
G Boam
G Tindall
C Fredrickson
R Lewin
C Tarpey
J Bowman
B Gardner
D Wenk
P Clapp
I Weiss
D Goreham

DOCUMENTS

- 1 3 Unilateral Undertakings
- 2 Petition in support of the proposal
- 3 List of proposed conditions
- 4 Plan showing adjacent conservation areas
- 5 2 sheets of photographs