



Town & Country Planning Act 1990 (As amended)

**WRITTEN REPRESENTATIONS / GROUNDS OF APPEAL  
ON BEHALF OF THE APPELLANT**

In connection with a planning appeal by

**Thalaki Enterprise Ltd**

against the decision of

London Borough of Camden

to refuse planning permission relation to:

Installation of 3 lightwells fronting Mornington Terrace and Mornington Place and internal re-arrangements to flat 1 and 2 at ground floor level

at:

**2 Mornington Terrace**

**London**

**NW1 7RR**

**References:**

Ref: 2010/mgj

Date: October 2014

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## **APPENDICES**

Appendix 1          Planning Officer's report

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## **1.0 Introduction**

- 1.1 Jones Town Planning Ltd has been instructed by Thalaki Enterprise Ltd to submit evidence in relation to the planning appeal, by means of written representations, into the refusal of planning permission by the London Borough of Camden for Installation of 3 lightwells fronting Mornington Terrace and Mornington Place and internal re-arrangements to flat 1 and 2 at ground floor level at the former Victoria public house 2 Mornington Terrace, London.
- 1.2 I am the Director of Jones Town Planning Limited. I have an Honours Degree in Geography/Geology and a Masters Degree in Town and Country Planning. I am a Chartered Town Planner and a corporate member of the Royal Town Planning Institute.. Prior to this I held similar positions at other town planning consultancies, trade associations and local government. I have been employed in Town and Country Planning work since 1989.
- 1.3 I am entirely familiar with the relevant planning policies related to this application. I am very familiar with the site, the surrounding area, and the relevance of planning policy to this site.
- 1.4 The proposed development comprises Installation of 3 lightwells fronting Mornington Terrace and Mornington Place and internal re-arrangements to flat 1 and 2 at ground floor level
- 1.5 This statement details the grounds of appeal and addresses the relevant planning issues and similar development within the immediate area. Reference is made to various documents in the statement copies of which have been submitted with the appeal documentation or by the Council. In order to avoid duplication these have not been resent. The statement should be read in conjunction with the application documentation including the design and access statement .

## **2.0 Site and Surroundings**

- 2.1 The appeal site comprises a three storey plus basement building on the junction of Mornington Terrace and Mornington Place. The appeal property comprises a former public house, The Victoria. Planning permission has been granted and commenced for the change of use of the pub to provide flats comprising various alterations and extensions.
- 2.2 The surrounding area is primarily residential and comprises three storey plus basement terraced properties. All the properties benefit from lightwells to the front with ornate iron railings for boundary treatment. This character applies to both Mornington Terrace and Mornington Place. Further South and north there are modern blocks of flats these are located at the junctions of Mornington Terrace with surrounding roads and comprise a small open area set behind a boundary fencing or walling at the back of the footway. To the west opposite the appeal site is the embankment set behind a boundary fence leading to the mainline railway.
- 2.3 The architectural character of the residential properties in the area is fairly consistent excluding the modern flat blocks. The materials on the properties in the location are also reasonably consistent, as is the boundary treatments.
- 2.4 The site is located within the Camden Town Conservation Area but is not subject to any other form of designation. The appeal property is not listed.
- 2.5 A copy of a site location plan has been submitted with the appeal documentation.

### **3.0 Planning History**

3.1 The relevant planning history of the site is outlined below

- 2013/5469/P Change of use from public house with ancillary residential accommodation (Class A4) to residential (Class C3) to provide 7 self contained units (4x1, 3x2 beds) together with basement excavation to increase the depth and footprint of existing basement, removal of rear additions & external stores at ground floor level, erection of ground floor rear extension, second floor level extension and mansard roof addition, alterations to fenestration, installation of glass blocks to front pavement and rear lightwells, and provision of bin and cycle store.

#### **4.0 The Development, the subject of this appeal**

4.1 The development that is subject to this appeal comprises the Installation of 3 lightwells fronting Mornington Terrace and Mornington Place and internal re-arrangements to flat 1 and 2 at ground floor level

4.2 The proposed development comprises a lightwell to the Mornington Terrace elevation, measuring 5m wide and 1.5m deep, one set of pavement lights would also be provided. Two lightwells are proposed on the Mornington Place elevation measuring 3m wide and 1.5m deep. The lightwell would be bounded by 0.8m high railings. Internally, the living/kitchen/dining room areas are reduced to 34 sq.m and 29 sq.m for flat 1 and flat 2 respectively. In addition the previously approved ground floor voids are infilled to provide a study in each flat.

4.3 As part of the application a design and access statement was submitted by the applicant and a copy has been enclosed with the initial appeal submission.

4.4 The application was submitted on 4 August 2014 validated and duly acknowledged with the reference 2014/5093/P. The application was considered under powers delegated to the planning officer and was refused permission on 01 October 2014 for the following reason:

1. The proposed lightwells with associated railings would appear as incongruous additions to the front elevation which would be detrimental to the historic integrity of the host building and would harm the character and appearance of the Camden Town Conservation Area, contrary to Policy 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.

2 The proposed development, in the absence of a legal agreement to secure a construction management plan, would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally, contrary to policies CS5 (Managing the impact of growth and development), CS11 (Promoting Sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy), DP20 (Movement of goods and materials), DP26 (Managing the impact of



development on occupiers and neighbours), DP28 (Noise and vibration) and DP32 (Air Quality and Camden's Clear Zone) of the London Borough of Camden Core Strategy and Development Policies 2010.

3 The proposed development, in the absence of a legal agreement to secure financial contributions towards highways repairs as a result of the proposed lightwells, would fail to mitigate the impact of the development created by the installation of lightwells, contrary to policies CS11 (Promoting sustainable and efficient travel), CS19 (Delivering and monitoring the Core Strategy), and DP21 (Development connecting to the highway network) of the London Borough of Camden Core Strategy and Development Policies 2010.

4.7 It is against this decision that this appeal has been lodged. A copy of the Council's decision letter has been submitted with the appeal documentation and the Officers report is included at appendix 1..

## **5.0 Planning Policy**

5.1 The relevant development plan for the area comprises The London Plan 2011 and the Camden Local Development Framework.

### ***The London Plan 2011***

5.2 The relevant policies are listed below.

Policy 7.4 Character of the Area

Policy 7.6 Architecture

Policy 7,8 Heritage Assets

### ***Camden Local Development Framework***

5.3 Core Strategy 2010

CS1 Distribution of growth

CS4 Areas of more limited change

CS5 (Managing the impact of growth and development)

CS6 (Providing quality homes)

CS8 (Promoting a successful and inclusive Camden economy)

CS14 (Promoting high quality places and conserving our heritage)

5.4 Development Policies 2010

DP21 Development connecting to the highway network

DP22 (Promoting sustainable design and construction)

DP23 (Water)

DP24 (Securing high quality design)

DP25 (Conserving Camden's Heritage)

DP26 (Managing the impact of development on occupiers and neighbours).

DP27 (Basements and Lightwells)

5.5 Copies of the above planning policies have been submitted by the Council and are not repeated to avoid duplication, reference will be made to the policies in the planning assessment.

- 5.6 In addition, Camden Council has produced Supplementary Planning Guidance, as follows,
- Camden Planning Design Guidance 2013. (CPG1)
  - Basements and Lightwells Guidance 2013. (CPG4)
  - Camden Town Conservation Area Appraisal and Management Strategy (2007)

***National Planning Policy/Guidance***

- 5.7 In addition, guidance in the National Planning Policy Framework is also of relevance. Reference will be made to extracts within the planning assessment, where necessary.

## **6.0 Key Issues**

6.1 Based on an analysis of the Council's decision notice and the appellant's grounds of appeal it is considered that the key issues in relation to this appeal are:

(i) Whether the proposed lightwells with associated railings would appear as incongruous additions to the front elevation which would be detrimental to the historic integrity of the host building and would harm the character and appearance of the Camden Town Conservation Area.

(ii) Whether the proposed development, in the absence of a legal agreement to secure a construction management plan, would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally.

(iii) Whether the proposed development, in the absence of a legal agreement to secure financial contributions towards highways repairs as a result of the proposed lightwells, would fail to mitigate the impact of the development created by the installation of lightwells.

## 7.0 Planning Assessment

### *The Principle of Development*

- 7.1 It is accepted by the Council, both in policy terms and based on the previous planning decision, that the principle of the appeal development i.e. conversion of the former public house to residential flats is acceptable in principle and is not a matter of dispute in this appeal. Similarly it is accepted that the provision of basement accommodation is also acceptable in principle. Work has commenced to implement the previous planning permission and therefore this permission is extant. These matters are confirmed in the Officer's delegated report.
- 7.2 In addition the following matters are considered acceptable by the Council and are matters not to be considered in dispute at this appeal:
1. No harm to the amenity of neighbouring occupiers
  2. No harm to groundwater flows
  3. No harm to surface water flows
  4. No harm to land stability
  5. With regard to the proposed internal alterations these are considered acceptable and the proposed development provides a satisfactory standard of accommodation.
- 7.3 Before addressing the key issues of the appeal we consider it relevant to set out what we believe is the character of the area as this has a significant bearing on the consideration of the appeal. This has been detailed in section 2 of this statement. In summary the area comprises properties with similar lightwells and railings. Although the Council the consider the former pub to be unique in its situation insofar as the houses with basements have steps up to the raised ground floor level. Whilst this may true on Mornington Crescent it is not the case on Mornington Place where the entrances with lightwells and railings are all at ground floor level. Indeed, the former public house design has more in keeping with these properties in relation to matters such as fenestration, floor levels etc. Photographs in appendix 2 show the character of the area including the contrast on the southern side of Mornington Place and the railway line on the western side of Mornington Terrace.

**(i) Whether the proposed lightwells with associated railings would appear as incongruous additions to the front elevation which would be detrimental to the historic integrity of the host building and would harm the character and appearance of the Camden Town Conservation Area.**

7.4 The crux of the Council's case, as identified in the Planning Officer's report is that as the host building is a former pub it has a different setting within the streetscene and the contribution to the character of the conservation area. To support their assertion they refer to an appeal in another part of the Borough, some distance from the appeal site albeit in the large Camden Town Conservation Area. The Planning Officer in her report states, "The Council expects development to provide a visually interesting frontage at street level, with regard to this development it would be expected that the interesting features and character of the pub facade are retained and any alterations would be sympathetic to the host building. The proposed railings would detract from the character of the pub and would result in a hybrid of architectural styles not appropriate to a building of this nature."

7.5 It is important to note that the former public house is not a statutorily listed building nor is it included on any local list of buildings. Therefore, it has not been identified by the Council as having any significant architectural or historic merit that requires additional special protection. Furthermore, despite the quality of the previous approved scheme the Council have accepted the change of use of the building from a public house to residential flats. Such a change of use will inevitably have an impact upon the original character of the property. The current proposal does not seek to alter the design of the main facade as approved by the previous planning permission. Given the above matters and the fact that the approved scheme introduced pavement lights which were not a feature of the original public house it is not considered that the introduction of the lightwells and railings would harm the character of the host property. The property will still retain its previously approved features.

7.6 The Council also place great emphasis on their opinion that the appeal building is significantly different from the neighbouring properties and this difference should remain and that the appeal proposal would therefore detract from this character. The Council refer to their view that the neighbouring residential properties, which they accept do have lightwells and railings and accept are a dominant feature of the character of the area, are

a different style of building in so far as there are steps up to the front door and a raised ground floor level. As identified earlier the appellant would contend that this is not a completely accurate assessment of the character. Whilst the adjacent properties on Mornington Terrace have such an arrangement it is not the case along Mornington Place where the entrances to the houses and the ground floor are at or very close to street level. Indeed the former pub building is in fact comparable to the properties along Mornington Place rather than Mornington Terrace. As can be seen in the photographs and also viewed by the Inspector on the appeal site visit the heights of the building, window size, design and position and the detailing of the former public house is comparable to the terrace of house on Mornington Place which have front lightwells and railings. As such the appeal building does not stand out as a distinctly different building when viewed along this street and therefore the proposed development is in keeping with and not harmful to the established character of the area.

- 7.7 The properties in the terrace of Mornington Terrace are different being higher than Mornington Terrace and also benefitting from dormer/mansard roof style additions. A common feature is the presence of the front lightwells and railings. Therefore, the proposed appeal development would not look at odds with this established character either. Indeed, as detailed above by retaining the design in the original permission and given the different style of building on Mornington Terrace the appeal site will retain its character as a distinct building in this location when viewed from and along Mornington Terrace. The above is shown with the appended photographs and also can be viewed on the appeal site visit
- 7.8 Finally, it is also considered that the character of Mornington Terrace and Mornington Place are varied with the presence of modern flat developments along both roads, within the vicinity of the appeal site. The railway railings and embankment also make a significant contribution to the character of the area. Therefore, the appellant would contend that there is some variety within the area and the appeal proposal, as such, would not be out of keeping with this varied character.
- 7.9 The Council also make reference to a previously refused appeal APP/X5210/A/06/2022362, This involved the part conversion of a pub to residential accommodation including the provision of lightwells at 234 Royal College Street, London, NW1 9NJ. We accept that the appeal was dismissed and that the Inspector did refer that in this case the lightwells replacing an old barrel drop would appear out of character. However, his decision in relation to the character was not solely based on the lightwells

the design and alterations of the conversion in particular the double doors were a significant contribution to his decision. This site is some distance from the current appeal site and within a different conservation area, the Jeffreys Street Conservation Area.

- 7.10 Notwithstanding the view that the appeal proposal should be considered on its own merits the appellant would contend that there are a number of significant differences in the appeal case when compared to the current proposal:
1. 234 Royal College Street is a more prominent street on the junction of busy roads. The current appeal site is located in a quiet residential street.
  2. This site is located within a mixed use area with a significant amount of commercial development. The current appeal is within a residential area where lightwells and railings are a dominant feature.
  3. The site is opposite a triangular area of open space. The current appeal site is opposite a modern brick block of flats and the railway line.
  4. Planning permission has already been granted for the conversion of the appeal property to residential flats and therefore the alterations have been approved.
- 7.11 Therefore, it is the appellant's contention that the facts and details of the dismissed appeal at 234 Royal College Street are different to the current appeal. As such the decision at Royal College Street is not a significant material consideration and should be accorded little weight in the current appeal. The Inspector is respectfully asked to view the site at 234 Royal College Street to consider the differences in the two sites.
- 7.12 The Council make reference to the importance of the appeal building in the conservation area management strategy. However, it is noted that the Victoria pub is not given significant emphasis in this document. It is suggested that the building does provide variety in the street and also that the building is listed as making a positive contribution. It is the appellant's contention that the current appeal proposal does not change this. As the pub is being converted to residential accommodation there is some change and the variety in use has already been lost and accepted by the Council. The design of the man building will remain as approved and is still considered to make a positive impact in the area. The provision of lightwells and railings is not considered to alter this conclusion. Therefore, it is not considered that the proposed development is at odds with the Camden Town Conservation Area Management Strategy.



- 7.13 With regard to the adopted development plans policies, as identified by the Council policies CS14 and DP24 seek to ensure all development is of the highest quality design and considers the character, setting, context and form of neighbouring buildings". Based on the above analysis it is the appellant's contention that the appeal proposal does just that and complies with the above policies. Policy DP 25 considers heritage assets and the Council states in the Officer's report that the new development should preserve and enhance the character and appearance of the area. It is clear that the development policy does not place a presumption against development in conservation areas. However, it is considered that the requirement to preserve and enhance is excessive. The NPPF refers to sustain and enhance. It is the appellant's contention that sustain is different to preserve as the latter implies no change whereas the former suggest change is possible to sustain the heritage asset. In addition, previous case law has considered that a neutral impact is acceptable in conservation area. It is the appellant's contention that the current appeal proposal does sustain the heritage asset being the wider conservation area and enhances by making a positive contribution to the approved residential units and the wider area. As such is in compliance with policy DP25 and London Plan policy.
- 7.14 Therefore, the proposed lightwells with associated railings would not appear as incongruous additions to the front elevation and as such would not be detrimental to the historic integrity of the host building and would not harm the character and appearance of the Camden Town Conservation Area, contrary to Policy 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.

***(ii) Whether the proposed development, in the absence of a legal agreement to secure a construction management plan, would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally.***

7.15 The Council consider that should planning permission be granted the proposed lightwells will require a new construction management plan, to ensure no conflicts with other road users and not be detrimental to the amenities of the area generally. It is not clear from the planning officer's report or at the time of writing the appeal statement why the Council consider such matters need to be covered by a Section 106 legal agreement. The only response from the Council to date is to advise that the construction method statement should be submitted prior to work commencing. However, it is noted and accepted by the Council that the conversion of the pub has commenced and is in compliance with the approved scheme. Therefore, it is assumed the Council mean that the statement would be required in advance of the lightwells commencing.

7.16 Notwithstanding the clarification above it is unclear as to why the Council require this matter to be dealt with by means of a section 106 legal agreement. The submission of a construction management plan prior to commencement could be subject to a suitably worded planning condition, which is not an uncommon approach in relation to such matters. Indeed the Government advise that where applicable such matters should be controlled by means of a condition rather than a legal agreement. A significant reason being the agreement approach would frustrate the applicant's right of appeal. Therefore, it is the appellant's contention that this reason of refusal is unfounded, the fact the previous applicant entered a section 106 agreement is not justification to require such an approach. A suitable condition could have been imposed on any planning permission. However, to safeguard the appellant's position should the Inspector consider an agreement necessary to secure the construction method statement we are submitting two unilateral undertakings that address this matter and the highway contribution and one that just addresses the highway contribution. This allows the Inspector the option if minded to grant consent to impose a planning condition requiring the construction method statement. It is the appellant's contention that either of the above approaches fully addresses the reason of refusal.

7.17 Therefore, it is not considered that a legal agreement is needed to cover this matter and it can be adequately dealt with by means of a condition. Notwithstanding an agreement will be submitted to safeguard the appellant's interest. Therefore, the proposed development,

provides an appropriate means to secure a construction management plan and would not give rise to conflicts with other road users or be detrimental to the amenities of the area generally, thereby complying to policies CS5 (Managing the impact of growth and development), CS11 (Promoting Sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy), DP20 (Movement of goods and materials), DP26 (Managing the impact of development on occupiers and neighbours), DP28 (Noise and vibration) and DP32 (Air Quality and Camden's Clear Zone) of the London Borough of Camden Core Strategy and Development Policies 2010.

***(iii) Whether the proposed development, in the absence of a legal agreement to secure financial contributions towards highways repairs as a result of the proposed lightwells, would fail to mitigate the impact of the development created by the installation of lightwells.***

7.18 The appellant is preparing a unilateral undertaking to provide the appropriate financial contribution. At the present time the Council have not indicated the amount that is required and this is therefore awaited. The Planning Officer has advised that there is a need for them to ask the highway team what contribution is required. Although this indicates that the Council have not calculated a figure at the time they drafted the reason of refusal, which does appear to indicate that the reason of refusal is unfounded. However, it is the appellant's intention to prepare a unilateral to be submitted at the final comment stage of the appeal. We would reserve the right to comment on the amount requested by the Council at final comments as the Council have not provided a figure in their background papers to the decision notice.

7.19 Therefore, based on the above and the submission of an appropriate unilateral undertaking the proposed development provides financial contributions towards highways repairs as a result of the proposed lightwells and would mitigate the impact of the development created by the installation of lightwells, in compliance with policies CS11 (Promoting sustainable and efficient travel), CS19 (Delivering and monitoring the Core Strategy), and DP21 (Development connecting to the highway network) of the London Borough of Camden Core Strategy and Development Policies 2010.

***Other Issues***

- 7.20 The appellant's architect has highlighted in the design and access statement the benefit the proposed development will provide in relation to light for the occupiers of the residential units. Whilst the Council consider that the approved scheme provides adequate light the current proposal will ensure this aspect of the residential flats is significantly improved.
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## **8.0 Conclusion**

- 8.1 The appellant's overall conclusion is that the proposed development would be an appropriate and beneficial use of the site, complying with the development plan, London Plan and national planning policy guidance. The proposed development is not harmful to the appeal property or the wider conservation area. The issue of construction method statement and highways contributions can be dealt with by means of a condition or unilateral undertaking to be provided.
- 8.2 Therefore, it is the appellant's contention that the appeal scheme is acceptable in planning policy terms; including meeting NPPF and sustaining and enhancing the character and appearance of the conservation area. We would therefore suggest the appeal is in accordance with the development plan and in the absence of other material considerations indicating otherwise consider that the development is acceptable.
- 8.3 Accordingly, the Inspector is respectfully requested to allow the appeal and grant planning permission for the development.