

## **Camden Council Development Control Committee – 22 January 2015**

### **The Castle, 147 Kentish Town Road**

**Planning Officer (PO)** – The building is located on the junction with Kentish Town Road and Castle Road. The application is for substantial demolition of the existing building with a retained front façade of the public house and change of use of basement and ground to office estate agents and the first to third floor of eight residential units.

After being identified in January 2013 it was put forward for listing on the local list and was considered as an undesignated heritage asset as defined in the NPPF as it has significant value in terms of its contribution to the architectural and historical character and appearance of this part of Kentish Town.

The building has a long planning history. The applicants previously undertook works of demolition including the removal of the roof leaving the building open to the elements as well as stripping the front façade of many of its historical features. An enforcement notice was served to require the reinstallation of these features. The building has now been made watertight and the Council's building control officers have met recently on site to ensure its watertight and structural stability.

The existing building is subject to article 4 direction which prevents its demolition without approval. The applicants previously submitted a prior approval for demolition which was refused. A full application for the demolition and redevelopment of the site for a five storey building was submitted in early 2013 and the applicants appealed against non-determination. This is the previous scheme which would have been refused, the appeal was dismissed in May 2013.

The applicants have since been working with the Council to ensure that the building is watertight and with planning officers in relation to this specific application. As we can see, the existing ground floor plan covers the majority of the site, although there is a small area of hard landscaped which was a beer garden fronting Castle Road. This shows the existing elevation fronting Castle Road, here you get an idea of existing building height and the other buildings. This plan illustrates the extent of the proposed demolition.

The proposal includes the retention of the front façade, the corner element highlighted in blue, and the demolition of the remaining building. Options for retaining the remaining building were explored, but at present, whilst the building is watertight is not fit for any beneficial use. The scheme includes substantial redevelopment of the rear and out over the existing single storey over the Castle Road building line and covering the existing rear garden. The scheme takes its lead from the general proportions of the masonry and fenestrations of the former pub, however remains subordinate in that the roof level is stepped down below the Kentish Town Road corner building and the fenestrations of the upper floor is also stepped down.

There's a clear hierarchy of floor levels in the new elevation, and differentiates from the historic building. The outline of the previous refused scheme, although faint, can be seen slightly on this drawing. To the Kentish Town Road elevation, as the façade is to be retained, the alteration to this façade is the erection of a

roof extension. The proposal includes the introduction of a contemporary roof extension. Much discussion was had during the design process as to whether a traditional tradition at this level was more appropriate or not. Both schemes were drawn up but it was decided that the traditional addition at this level caused a visual and practical clash and was not pursued. Due to the setbacks at roof level, this addition would not be visible from short views, however it is accepted that it would be visible from longer views along Kentish Town Road. The proposal is considered to be minimal in its appearance and would sit unobtrusively behind the substantial parapet of the Victorian elements.

As previously detailed, the proposal incorporates a single storey basement under the whole site. There is an existing basement level, but the proposal includes increasing the size of the basement under the existing rear beer garden. The basement impact assessment was submitted and was independently assessed by GEA. In short, GEA consider that the information was acceptable and in line with policy DP 27 and CPG 4. A structural report was also submitted and supported the application, and this was also independently assessed by GEA. A temporary steel structure is proposed to support the façades on Kentish Town Road and Castle Road. Following on from the independent assessment, GEA report that the details satisfy policy.

The ground and basement levels are proposed to be used as an estate agent and associated office. To the first floor, the residential units have windows overlooking either Kentish Town Road or Castle Road and windows opening up into the large light well and hall way. I'd like to draw member's attention to the fact that there is an amendment to the drawings at this level and second floor level to what's shown in your agenda pack. The proposed balcony to the rear of the property is slightly reduced and a condition is recommended to be added that privacy screens are to be erected and maintained at the ends of the balcony at first and second floor level. A deputation has been received in relation to the loss of sunlight to 4a Castle Road. A sunlight and daylight report study has been submitted in support of the application and whilst it is accepted that there will be a slight loss of sunlight to these windows, the study concludes that the proposal would have no unreasonable affect in relation to the amount of sunlight and daylight received at nearby properties in line with BRE guidelines.

Air source heat pumps and photovoltaic panels are proposed to be incorporated into the scheme. The PV panels shown on this roof plan are proposed to be flat and will not be visible from the street and wider vantage points. The application is proposed to meet code level 4.

In conclusion, whilst only securing the retention of the front façade is regrettable, officers feel that the proposal brings back a derelict and vulnerable building, which is on the local list, into a mixed and vibrant use. The proposal is considered to retain the character and appearance of the wider street scene. Conditions are recommended to ensure that all details in relation to materials for the build are submitted to the Council for approval to ensure they are of a high quality and suitable. Accordingly, the scheme is recommended for approval, subject to conditions and a s.106 legal agreement as detailed I your agenda pack.

**Objector** – I have no objection to the change of use. Have lived opposite the pub since 1989, crowds outside pub. Objecting to the fact that winter sunlight from south facing windows will be lost. Picture numbers 3, 4 and 5 show the view of the sky that will be lost due to the increased height. My property is worst affected on block of flats and I don't want to lose sunlight during winter months. I would like to draw your attention to other schemes, such as one in Watford, where development is more in proportion to rest of building.

**Objector** – Object to the application, especially the change of use. This is a landmark site and historic building. The building represents a design which is being lost in Camden and Kentish Town. It is a site of great historical significance which should be acknowledged and preserved. I would like to draw the committee's attention to s.12 of NPPF. The use of a building should be in keeping with its heritage. The change of use undermines the intention of putting it on the local list.

**Helen Cuthbert (Planning Potential)** – The previous proposals which we've heard about from the presentation by the officer involved the complete demolition of the building and a large replacement building and they were refused on appeal in May last year. Since then, Ringleys, who are property management agents and have a local office opposite this site, instructed a new design team, myself and Daria Wong and our structural engineer from RWA, to bring forward revised and positive proposals for the site. We liaised very closely with officers and also held two consultation events with local residents. Whilst objections have been received, these principally relate to the need to reinstate the architectural features of this pub.

The Kelly Street Resident's Association support the scale and massing of the development, but want to ensure that all the plaster mouldings and window surrounds are reinstated. This reinstatement is controlled by the enforcement action that is ongoing and conditions 4 and 14 in the proposed conditions.

The approval of this application would ensure that these original features are reinstated and refurbished and the building is brought back into a viable use. There has been a lengthy debate about the style of the roof extension, and officers consider that the modest, contemporary approach would be the least obtrusive. An example of this approach is shown in photographs provided in your supplementary agenda, it's the Rose pub in Southwark and it shows how the modern addition can work with the historic pub very nicely.

We've been able to address the concerns raised about daylight and sunlight by the occupier of 4 Castle Road opposite the site. The daylight assessors have specifically considered these windows and confirm they fully meet the BRE guidelines.

As the building is on the local list, it is paragraph 135 of the NPPF which applies and this requires the use of balanced judgement. The restoration of the façade ensures that the heritage of the building is protected and maintained for future generations. The use as a pub is something that has split opinion. Some want it to go and some want it to stay, but what we have achieved through this scheme is the retention of the pub as it looks.

**Daria Wong (Daria Wong Architects)** – When we first started looking at the building, it was obvious that previous massing was too high and looked out of place. We worked to use the existing pub building as a focal point to generate the scheme and the opportunity to restore the streetscape along Castle Road. In order to make sure the section of new building would be subservient to the old pub, we initially proposed proportions that were much smaller in width in reflection to numbers 3 and 5 Castle Road. Following feedback from public consultations and close liaison with the case officer and conservation officers, we looked at producing a scheme which united the existing corner anchor building more with the new proposal. At this point, taking points of departure from datums, parameters and window sizes from the existing building. We tried to create a subtle step down from the existing façade and by making sure the top storey extension was set well back to ensure that it would not impose upon the streetscape which benefits greatly from having the existing building line on the junction of Kentish Town Road and Castle Road.

**Cllr. Meric Apak** – In the presentation, it is a bit unclear about lighting, sunlight and shadow being cast on properties. Can we have clarification? Officer's report suggested slight loss of light, in deputation I've heard I will lose all my sunlight, and the applicant has said it meets with guidelines.

**PO**- Sunlight and daylight report has been submitted and does show scheme is compliant. I've specifically referred to windows on 4 Castle Road which says that 25% of annual sunlight hours are available to these windows. The proposal is fully compliant.

**Cllr. Danny Beales** – Just to start off, what we have here is an act of cultural vandalism to be honest. Trying to make the best of a bad situation caused by applicant's contempt for the local community. A number of groups have raised concerns about the design and reinstatement of quite intricate features of the building. Kentish Town Neighbourhood Forum have raised concerns about the façade and design and have asserted there is a lack of detail in the proposals. How can this be overcome? Particularly bearing in mind the attitude of the applicant and their relationship with the Council and unwillingness to follow procedures. A secondary issue is car parking. S.6.54 on page 46. This is an area of high parking stress, main high street, and residential area with controlled parking zones. Development of residential is car free but potentially new usage of estate agent is not. What do officers think about the impact and whether that is a potential consideration, thoughts about potential impact upon residents.

**PO** – In relation to enforcement and reinstatement, the reinstatement is controlled under the enforcement notice, the enforcement is still open and will remain open until breach is resolved. In relation to the detail, requested conditions put some relation to the façade, especially in s.106 legal agreement. We will continue to monitor that and request details prior to commencement. In relation to car parking, I will pass you over to Steve.

**Viability advisor** – The reason that we haven't secured totally car free development is that the existing site already had office use so can't insist on car

free development. We could only do so if a new site and office use was being introduced.

**Head of Development Management** – Coming back to what Cllr. Beales mentioned about the reputation of applicant and what weight we'll attach to that. The answer is we can't, planning law says that we have to assume that the development with the right mitigation is going to be carried out so we can't take into account form and what happened before.

**Cllr. Claire-Louise Leyland** – We could be pedantic about how we culture our conditions, make them quite detailed.

**Cllr. Heather Johnson** – We will want that information. Lucky that we have good photos of what the site looked like previously and I'm sure residents will be eagle eyed as it goes up.

**Cllr. Adam Harrison** – I agree with what Cllr. Beales says. It is a shame to have an applicant that attempted to ruin the building and there is little come back on this. They should be ashamed of themselves. My question is, the enforcement notice detailed on page 36 mentions internal features as well, mostly we've heard about external features. I've looked in report for details of internal features but haven't been able to find them. Can you tell me what they are and are they going to be defended as well?

**Conservation Officer (CO)** – Did you mean where it said cornices at first floor level?

**Cllr. Adam Harrison** – Just looking at enforcement notice, second bullet point on page 36 where it says preserving historical features, both internal and external, is essential to the building's character.

**PO** – It's just external features in relation to the first floor because it's not a listed building so we can't protect internal elements.

**Cllr. Adam Harrison** – Do you know if there were internal elements that would've been lost because of the construction that took place?

**PO** – Not as far as I'm aware.

**Cllr. Flick Rea** – I'm slightly concerned. We put this on the local list and I'm actually slightly concerned we are talking something that was considered an important building, enough to put on our list. Is this the weight we're going to give other buildings on the list? Are we going always going to say as long as we keep the façade it's alright? I'm just not very happy about the status of the local list in respect of this planning objection. It just worries me for the future.

**Cllr. Phil Jones** – The enforcement notice, which has not be complied with, no action has been taken. It includes the retention of the roof and they haven't done anything about that. Are we saying that's ok because they're going to maintain the façade? Shouldn't they be made to comply with the enforcement notice that's been upheld by a planning inspector, rather than allow them to get away with it to create a crappy estate agent in Kentish Town that no one wants anyway?

**CO** – I can answer the question about the local list. The purpose of the local list was to identify buildings outside of conservation areas that were not protected, that could be demolished without permission, so it's an auditing service in the first place to get information about buildings that we might've otherwise lost. Obviously it's not the same as statutory listing. The idea is that we identify buildings, then we can give them weight in the planning process. NPPF doesn't say those buildings can't be lost or altered, it doesn't elevate them to the same kind of position as listed buildings. It is something we have to give weight to in the planning judgement.

**Cllr. Flick Rea** – I'm aware of that, but what reassurances does that give residents, when we're really saying that it doesn't have any relevance? What does it actually give in terms of protection? In fact, the planning committee had turned the previous application down before the building got listed on the local list. So, in fact the local list has given it no extra protection at all.

**CO** – It does mean we're keeping the façade and the façade has been identified as a key contributor in terms of townscape.

**Cllr. Flick Rea** – Is it simply going to mean that if you have a locally listed building, it will always be the façade or will it be integral to the rest of the building? This is the first time I can remember one coming to us that is on the local list where we're saving the front of it.

**Cllr. Claire-Louise Leyland** – It is very clear in the enforcement notice on 22 March after the appeal that all the works were supposed to have been done two months after 22 March, that's May. It's now January 2015, that's quite a long time and none of the work has been completed and the roof appears to have been abandoned. Can you comment on this as well?

**Legal advisor** – The local list does give a protection, it's a consideration that should've been taken into account before the local list existed. To answer your question Cllr Rea, I don't think it establishes any sort of precedence. You have to look at each case on its merits and what the local list does is bring in a new consideration that says we should be looking at these buildings in a particular way and give them a measure of protection. Like with everything else it has to be read with all the relevant policies, like encouraging bringing buildings back into use. I don't think you can say it established a precedence. In terms of the enforcement notice, the situation would be that there would be a requirement to comply with that enforcement, if in the meantime an acceptable scheme is given planning permission, that permission overrides the enforcement notice. The enforcement notice tonight is background and added complexity, it's not directly something to take directly into account. If you didn't approve the application tonight, the enforcement notice would still be there.

**Cllr. Claire-Louise Leyland** – If it's not complied with in its own time, that would be open to legal action wouldn't it?

**Legal advisor** – We'd take legal action if it was expedient to do so. It wouldn't move automatically to legal action, but continuing noncompliance would ultimately lead to legal action.

**Cllr. Sue Vincent** – I guess there's a couple of things, one just off the back of that. My understanding of the local list, and the legislation that enacted it, is that it is a community asset. And I think that that is a potentially broader listing and criteria than just the building and fabric itself. It's the use and community aspect that I think is of concern to members. There appears to be an error, so if we could check, 2.4 says that an A2 B1 flexible use at 418 sqm and yet page 30 says 634.5 sqm. If you look at original size, 163 sqm, and it appears to be going up to going up to 1331 sqm which is a massive overdevelopment on a corner site. I guess my concern is that whilst we're told the BRE is a particular standard, we're not really getting the impact on that residence. It's the bulk and overdevelopment which is actually causing the negative of the local resident. Do you have any detail of how that will impact on as it's also potentially a sense of enclosure that the neighbours would feel? And perhaps just a comment on the detail of the community asset as regards to the use. The level of detail in terms of the design is really poor and there is no architectural finessing that we're looking at here.

**PO** – In relation to the community asset, the pub was closed in 2011 and has remained vacant ever since. No evidence was provided, in relation to the previous application, to policy DP15 proving that it was in a community use. It was accepted back in the previous application that it didn't have a community use and change of use was accepted. In relation to impact on the resident, the inspector in the last application, which was for a much larger development, stated that the applicant had submitted a daylight sunlight report which concludes that there's no unreasonable affect in relation to the amount of daylight. However, they did consider that that didn't assess the overbearing and dominant nature of the proposal. In this application however, it's considered that due to the reduction in height and being in line with 3 Castle Road, that the overbearing and dominant reason for refusal previously has been overcome. I accept that the total floor size is not over 1000 sqm.

**Cllr. Sue Vincent** – Just tell me, what is the reduction in height from the previous, seeing as it was such an important element? And it's the officer's assessment that it was acceptable, not the inspector?

**PO** – What I referred just referred to was the inspector on the previous appeal.

**Cllr. Sue Vincent** – So your assessment is that it is an acceptable height, what is that difference please?

**PO** - The previous scheme was a five storey building and this is a three plus roof extension. So we've lost a storey overall.

**Cllr. Sue Vincent** – Can I have that in metres please?

**PO** – I don't have that information. Applicant, do you have that information?

**Daria Wong** – The reduction is a whole storey which is three metres. So basically, what you'd see where the black line denoting the floor closest to 3 Castle Road, we're actually below that and in fact the extension to number three, which was recently granted permission, sticks out much higher. We're now substantially in line with number three and subservient to the original building on the corner.

**Cllr. Richard Olszewski** – I wonder if (Aiden?) could give us further advice on enforcement. Were we to refuse this application, what is the likelihood we'd proceed to legal action on the enforcement order? I think you said earlier we'd only do so if it were expedient to do so, what might the criteria for that be?

**Legal advisor** – Thinking about it further, I suppose the main significance of the enforcement notice would be leverage for the planning officers to negotiate an acceptable scheme. Noncompliance with the enforcement notice would be a criminal offence, so that would concentrate the applicant's mind to the extent. But the basic issue is that you have to consider this scheme on its planning merit against the adopted planning policies of the Council and the enforcement notice is another layer of complexity relating to the site but it's not something you should be considering tonight.

**Cllr. Phil Jones** – I do personally object to the change of use actually, but I appreciate that within the current policies we can't use that as a reason, but we are changing our policies to remedy this deficiency. Lucky for the applicant they've got in first. I wanted to go back to the roof. There's been some concerns raised by objectors over the design, particularly that it's a rectangular, modern design, incongruous to the Victorian building below it. It should be a sloping mansard, preferably in a matching style to the existing building. There isn't the level of detail on this application and could we have your comments on that design issue please.

**Cllr. Danny Beales** – My point was about modern extensions, the pictures that have been provided by the applicant of a site in Southwark do show quite a different scenario, the pictures are poor so it's hard to tell, but it seems this modern element in protruding, when you see it front on you still see this modernist element sticking out on the side like a barnacle. In my view, that doesn't keep that view of the corner site as it was. I think it detracts quite substantially from that view.

**Cllr. Claire-Louise Leyland** – On a similar point, if you look at the image on page 69 in our report packs, I noticed on 6.2.9, it's noted the priority for all is to reinstate the façades and bring the site back into active use. I can see there has been a priority on the façades, but the building is not just a façade. I'd welcome your thoughts on how that façade has been enhanced by the changing roof above which adds very little in relation to the façade that you've treasured.

**CO** – We are looking at flat elevations so there is no perspective on them, so the bit you can see at the back with the stock brick is much further back and the main roof extension is set back quite significantly, so you're not getting the same perspective you'd get with medium to long distance views. The parapet is quite deep and would conceal it in shorter views. I think the thing about the architecture of the building is that it's Italianate style and the thing that strikes you when you look at page 58 is the strength of the parapet and heavy cornice. Officers did look at both traditional and contemporary roof extension because both have their merits, we'd often start with a traditional mansard. The thing about this period building is that they often don't have visible roofs, one of the defining characteristics is that you don't normally see the roof. Mansards are not typical



of this type of architectural period. I did see the drawings myself and I must admit the mansard looked pretty awful on it, it's hard to pinpoint exactly why it didn't sit correctly. The contemporary addition with the setback enabled the incorporation of a terrace which is good for the amenity value of the scheme, but also a good distinction between the very strong personality of the pub and the strong presence it has on the street. You're never going to see it as you see on those flat elevations. So after looking at two options, officers felt that the contemporary option was going to sit as a very clean distinct break that would allow the building to speak for itself. I think the mansard can muddy the waters as you're never sure if it's an original addition or a historic addition, and it just doesn't look good.

**Cllr. Flick Rea** – The one elevation on page 67 shows the Castle Road frontage with the original side frontage of the pub. If you can go to the next page and look at 69, you're looking at the frontage of the pub but with a bit sticking out of the side which you can't actually see, so the two elevations don't actually match up.

**Cllr. Heather Johnson** – That's because it's a flat elevation. That side piece will be significantly back.

**Cllr. Flick Rea** – 69 is a sort of 3D elevation, unless that is what you can see from Kentish Town Road. Is it a carbuncle or the artist's impression?

**CO** – If you look at the shape of the building, that bit that you can see at the side there is the original pub. So when you look at the front elevation on Castle Road, you see both the modern addition and the pub in the same place. As it's a flat elevation, when you look back at it from Kentish Town Road, you're seeing that bit which is set back.

**Cllr. Danny Beales** – Wanted a comment about how that adds to this locally listed building and its prominence as a corner site.

**CO** – Well obviously the key significance is keeping the façades of the pub, and yes you will see this new development. It is quite set back and the flat elevations make you feel like you're going to see it in the same place, it would very much be a recessive element, as you're walking down Kentish Town Road you're not seeing the building like that as it's around the corner, it's set down, it's subordinate enough to sit comfortably in a small group on Castle Road. I think it's a perfectly responsive, fairly elegant solution and I think some of the conditions will be able to pick up on some of the detail that members feel is missing from the drawings in terms of details around the windows and all the things that give a scheme quality.

**Cllr. Adam Harrison** – I'd like to go back again and ask about the internals of the building as it is at the moment. Is the damage to the building such that, it is the officer's view that you couldn't restore the building internally as it is now, is it so badly damaged that you couldn't do it or would it be feasible?

**PO** – There's limited floor joists, I couldn't get access into that front room there as there's large sections of floor that isn't there anymore. There's very limited structure internally.

**Cllr. Adam Harrison** – Were they removed because of the damage caused by the roof, the exposure of the roof, the elements?

**PO** – No, it's very run down inside, it wasn't just caused by water coming through the roof. The roof is now watertight. It would've been substantial water damage with it all taken off and it was never all taken off so it's not all to do with water damage.

**Cllr. Adam Harrison** – We have to think about buildings not just in terms of the façade, they have an integrity in themselves. Otherwise we're going to have bits of ??? (*unable to translate*) all across the Borough, we saw this with 1-3 Goodge Street which collapsed two Christmases ago and is now apparently going to be restored in the same fashion. That was a terrible loss for the oldest building on Goodge Street.

**Cllr. Stephen Stark** – Can you just clarify for me the following; on the infill on Castle Street, is the brick yellow?

**PO** – It's yellow stock brick but we've commissioned a sample of it prior to any commencement.

**Cllr. Stephen Stark** – Is the building to the right yellow stock brick?

**PO** – It's rendered.

**Cllr. Stephen Stark** – The yellow stock brick is completely different to anything else in the road?

**PO** – Yes

**Cllr. Stephen Stark** – My second question is, the opponents to the scheme, one mentioned the historical nature of the site, I just wanted to ask officers, how they took that into consideration? And just going back on the other objector, I just wanted to know, what is the usage of the rooms that will be affected? And when you mentioned, it was 25% I think, how does that actually relate? Will the person have to put lights on during different times of the day? I just wanted to get some idea of how it would affect their lives?

**PO** – Going back to the historical nature of the pub, it has been a pub for many years, but as I said previously, from 2011 it has been vacant, and as our current policy states, we need to see if there is a community use and that was assessed in the previous application and this application that there wasn't a community use as such in evidence to protect this pub in this instance. In relation to the sunlight and daylight, the guidelines are set out in the BRE standard, that's what we can go on and it goes into quite a bit of detail in relation to the existing winter and summer sun, and from the information we've been given, it will meet the BRE guidelines. In relation to them turning on lights, I'm not sure about that.

**Cllr. Stephen Stark** – Maybe we can ask the objectors what they use the rooms for?

**Objector** – One is a bedroom and one is a bathroom. I do want to say one other thing, it will put my heating bills up because the sun on my bedroom window is quite warm even in the winter and the building is damp.

**Cllr. Roger Freeman** – Cllr Vincent was quite correctly wanting to know about where the increase in size comes in, my reading is that 150 of the size increase comes in the basement which explains quite a bit but not completely the increase in the office space. Just as a general comment it's interesting to see the speed in which we are changing our approach to basements, this in the greater scheme of things, is not a very big basement but we have a s.106 basement construction plan so I think it's important for members to bear this in mind.

A question to the Conservation Office, my colleague Cllr Stark was talking about the bricks, the Kelly Street Resident's Association were rather rude about the bricks, you saw their comments. A question to the case officer, I had flagged this up previously, and we're talking about a year to ensure that the building is brought back into use, I couldn't see a condition about it. If we approve this tonight, 629 says a year to finish, a year to start with no conditions, I'd like to have a bit of clarity about what that's about, and if we turn it down do we go back to the enforcement notice?

**PO** – Just in relation to the year, we usually grant planning permission for three years, but with this and the enforcement notice, we've stated that the permission must be implemented in one year, they need to start works within a year. That gives times to submit some of the level of detail that we've requested in relation to the brick samples, the drawings and things like that.

**CO** – Obviously the visuals are just there to demonstrate the overall approach and there is a sample condition where would assess whether they are appropriate. Just one small comment about yellow stock brick, if you look on 59 and 60, the buildings directly adjacent are stucco, the big mansion blocks on the other side of Kentish Town Road are all yellow stock brick and again on the other side of Castle Road is all yellow stock brick so I think in a Kentish Town wider context, yellow stock brick is perfectly fine, but we'd want to make sure it's a good quality brick.

**Cllr. Roger Freeman** – If we approve it, it has to start within a year, if we turn it down we go back to the original enforcement notice do we? What happens?

**Legal advisor** – I think that's what would happen. You'd have a site that didn't have an extant planning permission and has an enforcement notice that hasn't been complied with. The other thing about building out in a year, you could put stuff in the s.106 to say that they had to build out and do certain things within a timescale if members were minded to approve this.

**Cllr. Roger Freeman** – So if we turn it down, we rely on the enforcement notice and the enforcement notice still has all the conditions about bringing back the plaster?

**Cllr. Claire-Louise Leyland** – So it would be a fully functioning, complete building again if we don't accept it?

**Legal advisor** – It would be what the enforcement notice requires.

**Head of Development Management** – Just to mention that we would have to wait for the appeal period to lapse before we could do anything, we'd have to wait until the applicant did appeal, that's six months.

**Cllr. Claire-Louise Leyland** – So we couldn't go to enforcement?

**Head of Development Management** – No, because they still have a right of appeal against any decision that we make tonight.

**Cllr. Roger Freeman** – If it was to be turned down, are you saying they have this six months right to submit an appeal, then it works its way through. What is the ramifications of that with the enforcement notice?

**Head of Development Management** – We wouldn't look to take enforcement action until the end of the appeal period lapsed, six months.

**Cllr. Claire-Louise Leyland** – Is that because we're not allowed to?

**Head of Development Management** – Because in the event that the appeal was successful, us issuing an enforcement notice to remedy the work could be seen to be unreasonable. And there could be a costs implications, but with all those previous decisions, there was subsequently applications, appeals etc which extended the time period, which is often the case and extends the enforcement period.

**Cllr. Heather Johnson** – The recommendation is to grant planning permission subject to the s.106 legal agreement which was all of the things we've heard about. So can I see all those members in favour of granting planning permission? (counts) So that application has been refused. I now need to ask members what reasons they want us to go on.

**Cllr. Danny Beales** – Bulk and design, not sympathetic to Victorian streetscape.

**Cllr. Phil Jones** – Demolition of building and modern reconstruction

**Cllr. Danny Beales** – Not subordinate enough to core locally listed building, detracts from façade and corner site.

**Head of Development Management** – Can I just clarify that's the development as a whole? So we're looking at the infill bit and the roof extension above the existing pub?

**Cllr. Flick Rea** – Roof extension, we don't think we like the mansards, also the bulk of it on Castle Road.

**Cllr. Heather Johnson** – Overdevelopment of the site as a whole?

**Cllr. Sue Vincent** – Yes. The impact on the residential amenity and the design. I think we've given enough detail on design for the officers to work up a substantial design element on it.

**Cllr. Phil Jones** – There's quite a lot of discussion about the residential amenity impact from the objecting deposition about the light.

**Head of Development Management** – Ok, so the member's concerns I've got here: bulk, design, impact on the streetscape, development as a whole, overdevelopment and impact on amenity, particularly daylight and sense of enclosure.

**Cllr Danny Beales** – Did we get something about the actual lack of detail of the design because that's quite integral to the preservation, so it's the actual lack of any detail about preserving that.

**Cllr. Heather Johnson** – We had a s.106 to bring that in before it was implemented so, that was there.

**Cllr. Danny Beales** – It's just so integral to the façade and the asset it should be part of the application, for us to consider and be able to make those judgements rather than for us to approve something that may not happen.

**Cllr. Heather Johnson** – We'll put that in if that's what you want to put in.

**Cllr. Flick Rea** – Keep a very close eye to make sure that nothing is done to demolish the roof any further.

**Cllr. Heather Johnson** – Well I think that goes without saying that that's what we want.

**Cllr. Flick Rea** – Can we please minute that we do not want this turning into a mini Athlone House.

**Cllr. Heather Johnson** – Yeah, you can minute that. Let's move on.

## **Introduction**

As explained in the Appeal Statement, other planning matters are not rehearsed in detail because the principle of the proposal, i.e. the demolition of the building, loss of A4 floorspace and provision of residential accommodation, are considered acceptable and did not form a reason for refusal.

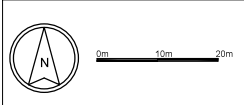
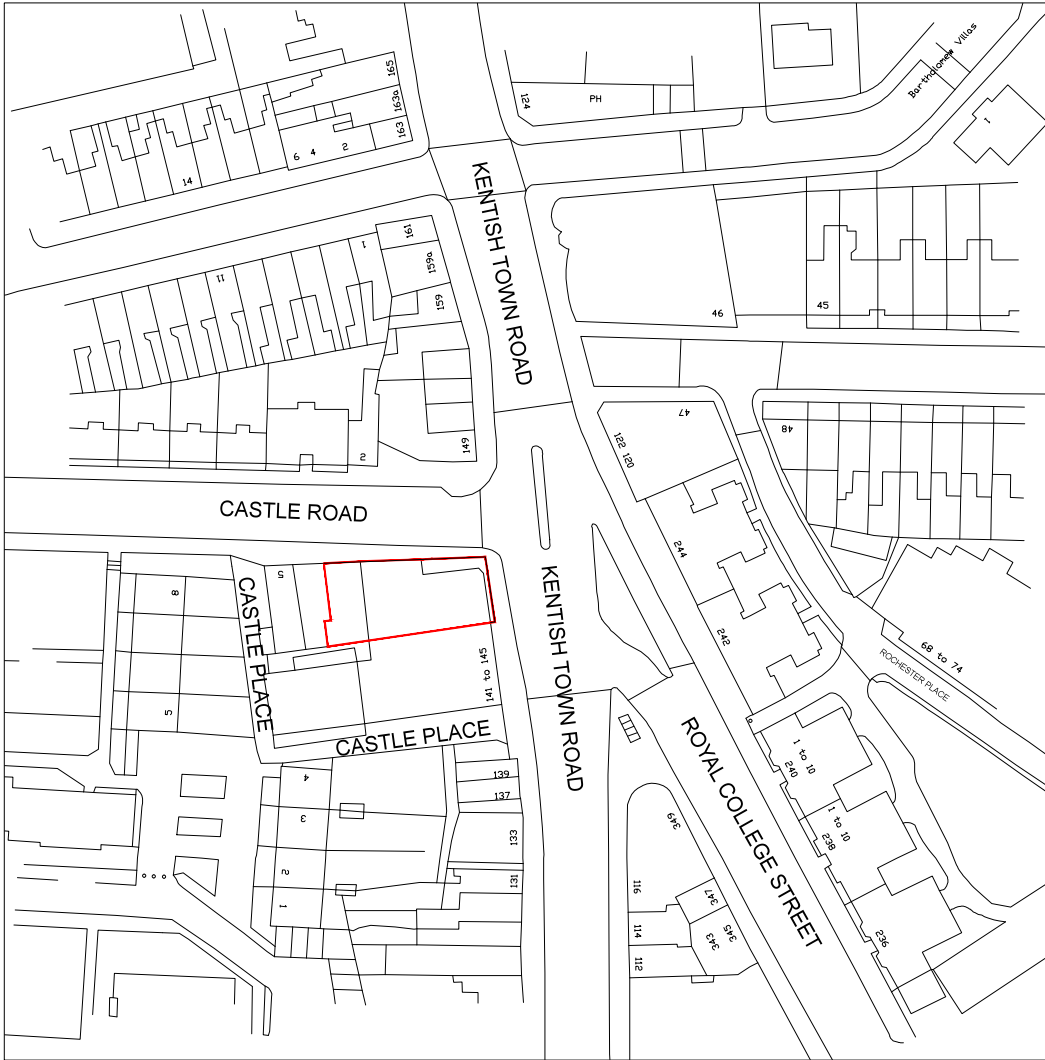
This Appendix provides a list of those matters which we will seek to agree with the Council following the lodging of this appeal, which is why it is in draft. It will also address those financial contributions sought, which we consider should not be required following recent government guidance.

The applicant seeks to agree that the following matters have been accepted:

- The loss of A4 floorspace, which has been vacant since 2011.
- The principle of residential and commercial floorspace in this location.
- The residential unit mix and floorspace proposed is policy compliant.
- The residential units provide an acceptable standard of accommodation.
- All units (with the exception of unit 6 owing to constraints) will be lifetime homes compliant.
- The proposals will retain the existing façade.
- A contemporary design to the rear extension would be most appropriate.
- Details of materials can be secured via a suitably worded condition.
- The impact of noise can be secured via a suitably worded condition.
- The basement aspect of the scheme is considered acceptable, subject to a Basement Construction Plan being secured as a head of term within the S106.
- The proposals do not result in the loss of daylight or sunlight.
- Air Source Heat Pumps (ASHP) AND Photovoltaic Panels (PV panels) are considered the most appropriate technologies for incorporating within the scheme.
- To ensure that proposals achieve a 37% reduction in CO2 emissions in accordance with the London Plan, this can be secured via the S106 agreement for the submission of a renewable energy and energy efficiency plan.
- The proposal achieved Code for Sustainable Homes 4.
- The proposals exceed the cycle storage requirements.
- A Travel Plan will be secured via a S106 agreement.
- A Construction Management Plan will be secured via a S106 agreement.
- Servicing of the site is considered acceptable.
- Refuse and recycling facilities.

In relation to financial contributions, owing to recent government guidance, the following will no longer be sought:

- Public space contributions;
- Education contributions; and
- Highways contributions.



A	14/08/28	BOUNDARY THICKENED	DW
Rev.	Date	Description	Init.

Client

Project Title  
**147 KENTISH TOWN ROAD**

Drawing Title  
**OS EXTRACT**

Cad File	Sheet Size	Scale
<b>1344-SCALED OS</b>	<b>A4</b>	<b>1:1250</b>
Drawn by	Drawing Date	Approved by
-	<b>July 2014</b>	-

Project No.	Drawing No.	Revision
<b>1344</b>	<b>OS-P</b>	<b>A</b>

## DARIA WONG ARCHITECTS

MAGDALEN HOUSE  
 148 TOOLEY STREET  
 LONDON  
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This drawing is property of Daria Wong Architects © and must not be copied or otherwise reproduced. All dimensions must be checked on site before commencing work. No dimensions to be scaled from this drawing. This drawing was produced using AutoCad LT.

**PLANNING ISSUE**

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## 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.
- 

### 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 units  
1+2 beds.
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

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## Appeal Decision

Hearing held on 2 April 2014

Site visit made on 2 April 2014

**by Tim Wood BA(Hons) BTP MRTPI**

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  - 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.
- 

### 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.
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### ***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 Bowring	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

**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995 (AS AMENDED)**

**DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH ARTICLE 6 APPLIES**

WHEREAS THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN ("the Council") being the appropriate local planning authority within the meaning of article 4(4) of the Town and Country Planning (General Permitted Development) Order 1995, as amended, are satisfied that it is expedient that development of the description(s) set out in the Schedule below should not be carried out at land known as 147 KENTISH TOWN ROAD, (FORMER CASTLE PH), LONDON, NW1 8PB and shown edged red on the attached plan, unless planning permission is granted on an application made under Part III of the Town and Country Planning Act 1990, as amended.

NOW THEREFORE the said Council in pursuance of the power conferred on them by article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995, as amended, hereby direct that the permission granted by article 3 of the said Order shall not apply to development on the said land of the description(s) set out in the Schedule below.

THIS DIRECTION is made under article 4(1) of the said Order and, in accordance with article 6(7), shall remain in force until 2<sup>ND</sup> DECEMBER 2013 (being six months from the date of this direction) and shall then expire unless it has been confirmed by the appropriate local planning authority in accordance with paragraphs (9) and (10) of article 5 before the end of the six month period.

**SCHEDULE**

Any building operation consisting of the demolition of a building, being development comprised within Class A of Part 31 of Schedule 2 to the said Order and not being development comprised within any other Class.

Made under the Common Seal of the London Borough of Camden this 3<sup>RD</sup> day of JUNE 2013. The Common Seal of the Council was affixed to this Direction in the presence of:

T M Knowles



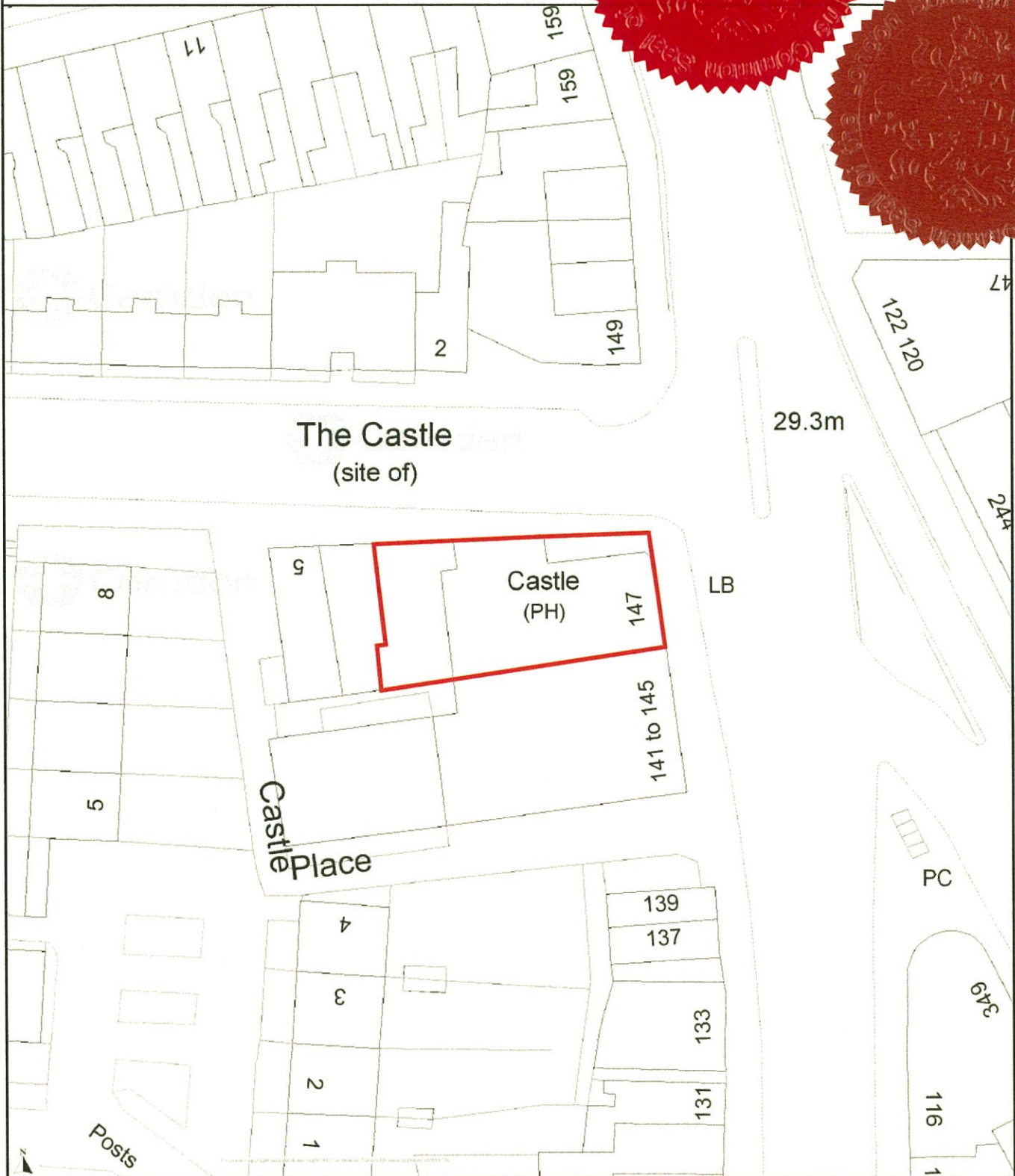
Confirmed under the Common Seal of the London Borough of Camden this 26<sup>TH</sup> day of NOVEMBER 2013. The Common Seal of the Council was affixed to this Direction in the presence of:

[Signature]





147 Kentish Town Road



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Scale 1/500 Date 30/5/2013

Centre = 528942 E 184544 N



# The Planning Inspectorate

Quality Assurance Unit  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Customer Services: 0303 444 5000

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Mr Kevin Goodwin  
C G M S, Bastion House  
140 London Wall  
LONDON  
EC2Y 5DN

Your Ref: KG/15420  
Our Ref: APP/X5210/C/13/2201362  
Date: 27 March 2014

---

Dear Sir

**Town and Country Planning Act 1990  
Appeal by 147 Kentish Town Road Freehold  
Site at The Castle, 147 Kentish Town Road, London NW1 8PB**

I enclose a copy of our Inspector's decision on the above appeal.

If you have queries or feedback about the decision or the way we handled the appeal, you should submit them using our "Feedback" webpage at <http://www.planningportal.gov.uk/planninginspectoratefeedback>.

If you do not have internet access please write to the Quality Assurance Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Yours sincerely

pp Craig Maxwell

EDL1



*You can use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is - <http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp> You can access this case by putting the above reference number into the 'Case Ref' field of the 'Search' page and clicking on the search button*

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## Appeal Decision

Site visit made on 5 March 2014

**by Wendy McKay LLB (Hons) Solicitor (Non-practising)**

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

**Decision date: 27 March 2014**

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**Appeal Ref: APP/X5210/C/13/2201362**

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

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by 147 Kentish Town Road Freehold against an enforcement notice issued by the London Borough Council of Camden.
- The Council's reference is EN13/0593.
- The notice was issued on 4 June 2013.
- The breach of planning control as alleged in the notice is without planning permission the removal of the roof, timber sash windows, rusticated quoins, window architraves with projecting cornices at first floor, bracketed sills and cornice at second floor and cornice at roof level.
- The requirements of the notice are to: completely reinstate the roof, timber sash windows, rusticated quoins, window architraves with projecting cornices at first floor, bracketed sills and cornice at second floor and cornice at roof level.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections and variations.**

---

### Procedural matters

1. The appellant disputes that the windows and roof have been removed from the building as alleged by the notice. The Council has provided photographic evidence to support its position in relation to the removal of the roof including the tiles and covering. The Council also carried out site visits and the condition of the building was observed on 29 May 2013 and 3 June 2013. Following the removal of the roof, the Council was in e-mail contact with the appellant to seek the reinstatement of a temporary roof covering to protect the building from water damage. Indeed, the appellant in its 'final comments' confirms that a temporary roof has been applied to the building so that it remains wind and watertight. Taking all the available evidence into account, it is clear that the removal of the roof has been correctly included within the allegation.
2. The Council accepts that not all the windows may have been removed and it was suggested that this could be confirmed at the site visit. The scaffolding screening erected around the building was removed at the time of my site visit so that the position of the windows could be seen. My observations confirmed the appellant's evidence that all the windows appeared to be in place. The Council's officer was unable to draw my attention to any physical features that might have led me to a different conclusion. I find, on the balance of

probabilities, that the windows have not been removed and that the notice is incorrect in this respect. However, I am satisfied that the notice can be corrected pursuant to my delegated powers under s176(1) of the 1990 Act without any injustice being caused. To do so would only serve to reduce the scope of the notice and would not therefore prejudice the position of the appellant.

### **The appeal site**

3. The appeal property comprises a three-storey building on the corner of Kentish Town Road and Castle Road located within the secondary shopping frontage of Kentish Town shopping centre. The building was last in use as a public house but is vacant at present. It had a rendered facade with detailing including rusticated quoins, window architraves with projecting cornices at first floor, bracketed sills at second floor and a cornice.

### **The planning history**

4. An application for prior approval for demolition of the pub<sup>1</sup> was refused on 20 May 2013.
5. An Article 4 Direction was served on the property on 3 June 2013. This removed permitted development rights for any building operation consisting of the demolition of a building being development within Class A, Part 31, Schedule 2 of the Town and Country Planning Act (General Permitted Development) Order 1995 (GPDO).
6. An application for prior approval for demolition of the building<sup>2</sup> was refused on 18 June 2013.

### **The appeal on ground (c)**

7. On ground (c), the burden of proof is on the appellant and the relevant test is the 'balance of probabilities'. The appellant asserts that the brick detailing on the face of the building was in very poor condition with some elements already missing and others with greenery growing in cracks and missing pointing. The appellant admits that these elements were removed for health and safety reasons but submits that the works do not constitute partial demolition such that planning permission would have been required for their removal.
8. The Council recognises that the building was empty and may have required renovation but disputes that the condition of the building warranted the removal of these features. It has provided photographs showing the state of the building prior to the works taking place which indicate that the structure was not in such a poor state of repair that the removal of these elements would have been required.
9. The appellant claims that the Council's photographs are not representative of the condition of the building before it purchased the site. However, the Council's photographs date from fairly recent times, namely, December 2010 and May 2012. There is no substantial evidence before me to support the appellant's assertions regarding the condition of the building or the view that this would have justified the unauthorised works. I am unable to find that such steps were urgently necessary in the interests of safety and health.

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<sup>1</sup> Ref: 2013/2482/P

<sup>2</sup> Ref: 2013/3096/P

10. The appellant disputes that "demolition" has taken place. However, the alleged breach of planning control does not include reference to that term. It merely sets out various features which are claimed to have been removed. S55(1) of the 1990 Act defines "development" as including building operations. S55(1A) defines "building operations" as including (a) demolition of buildings; (b) rebuilding; (c) structural alterations of or additions to buildings; and (d) other operations normally undertaken by a person carrying on business as a builder.
11. The changes which have been made would, in the main, be visible from a number of public vantage points. I find, as a matter of fact and degree, that the alterations which have taken place materially affect the external appearance of the building as a whole and do not therefore fall within the exclusion from the definition of development set out in s55(2)(a)(ii) of the 1990 Act. Given their nature and extent, I am satisfied that they constitute "building operations" under s55(1A)(d) and therefore require planning permission. Since no planning permission has been granted for these works, the appeal must fail on ground (c).

**The appeal on ground (a) and the deemed application for planning permission**

***The development plan and other policies***

12. The development plan for the area comprises the London Plan 2011 and the Camden Core Strategy and Development Policies Documents of the Local Development Framework (LDF). The relevant London Plan policies include Policy 7.4 Local Character and Policy 7.8 Heritage assets and archaeology. The relevant Core Strategy and Development Policies include CS5 – Managing the impact of growth and development and CS14 – Promoting high quality places and conserving our heritage, DP24 – Securing high quality design and DP26 – Managing the impact of development on occupiers and neighbours. The Council has also published the Camden Planning Guidance 2011 (SPG).
13. Turning to national policy, the Government issued the National Planning Policy Framework, "*the Framework*", in March 2012. It explains that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.<sup>3</sup> Paragraph 135, states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. It defines a "heritage asset" as including assets identified by the local planning authority (including local listing). I find the relevant development plan policies in this case to be consistent with the Framework and full weight in accordance with their statutory status should therefore be attached to them. So far as other national policy is concerned, the Planning Practice Guidance was issued on 6 March 2014. However, in the light of the particular facts of this case, I am satisfied that the issue of this policy guidance has no bearing upon my decision.

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<sup>3</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

### **The Main Issue**

14. The main issue is the effect that the development would have on the character and appearance of the host building and the surrounding area.

### **Reasons**

15. The deemed application derives from the alleged breach of planning control set out in the notice. It is for the operational development which has been carried out, namely, the removal of the relevant features from the building and not for some prospective redevelopment scheme.
16. The appellant points out that the building is not located within a conservation area or any other designated area of value. Whilst it has been included on the draft local list, that process is at an early stage and it is not yet an 'undesigned heritage asset'. It submits that it is the site and not the building that is important. It points to the fact that English Heritage has declined to list the building and that the interior has been significantly altered beyond its original layout so that it lacks any "fittings of interest". Whilst it was accepted that the exterior of the property was "of interest", it was described as a "typical example of mid-C19 pub architecture".
17. The Council has nominated the building for inclusion on a local list of heritage assets for reasons of architectural significance, townscape significance and social significance. It submits that the loss of distinctive features which contribute to the special character of the building is detrimental to its character and the wider area.
18. The appellant disputes that the existing building is some 160 years old and submits that the height of the ground floor and hierarchy of the building reflect its Victorian age and nothing more. The appellant claims that neither the building nor the wider area has any significant value. As indicated above, the Council's photographic evidence shows the condition of the building before the development took place. Even though the building is not statutorily listed and has only been nominated for inclusion on the draft local list, I consider that the distinctive features which have been removed had considerable merit and made a material and positive contribution to the character and appearance of the host building and the streetscene. The loss of these architectural elements of the building has resulted in a plain facade that does not exhibit such character or make such a positive contribution.
19. The appellant refers to its redevelopment proposals for the building and contends that there are no policies to protect public houses. In response, the Council refers to Policy DP15 (Community and leisure uses) which seeks to resist the loss of local pubs that serve a community role. However, the question of whether or not this policy is applicable, or whether the building should or should not be granted planning permission for redevelopment, does not bear directly upon my consideration of the deemed application. The future of the building and whether the site will ultimately be redeveloped remains a matter for speculation. It does not justify the retention of the structure without these features at the present time. Whilst I have had regard to the available information concerning the age and condition of the building prior to the works taking place such considerations do not dissuade me from that view.

20. My attention has also been drawn to other nearby development such as the works undertaken to the building at No 349 Royal College Street and the modern redevelopment of No 137 Kentish Town Road (Kent Café). I acknowledge that buildings such as the Kent Café obviously form part of the local context within which the appeal building sits. However, this appeal has been considered on its own merits and particular facts. I do not regard this other development which has been mentioned to be a strong argument in support of this appeal.
21. The appellant complains that the Council is seeking to use its planning powers to stall the planning process to buy it time to publish its draft local list and that this does not provide a reasoned justification for the use of Article 4 and enforcement powers. It asserts that the service of the Article 4 Direction was heavy-handed and unjustified. However, the expediency of the Council's decision to issue an enforcement notice in this case is a matter that falls outside my jurisdiction. Likewise, the question of whether the Council has provided appropriate justification for the Article 4 Direction.
22. The appellant explains that building has been vacant since 2011. The works carried out to it were a preparatory step towards demolition and the redevelopment of the site to bring it back into use and make it safe. It contends that works aimed at bringing the disused site back into use should be supported and that this would assist with the creation and protection of jobs. Whilst I recognise the appellant's good intentions in these respects, such considerations are strongly outweighed in this case by the harm which I have identified.
23. I conclude that the loss of the features identified by the corrected notice has a significant adverse visual impact and materially detracts from the character and appearance of the existing building and the wider area. The development would not be in accordance with Policies CS14 or DP24 which are consistent with the Framework. The appeal fails on ground (a) and I do not intend to grant permission to the deemed application for planning permission.

**The appeal on ground (f)**

24. On ground (f), it is clear from considering what is said in paragraphs 3, 4 and 5 of the notice, read as a whole, that the remedial requirements follow from paragraph (a) of S173(4) of the 1990 Act. The notice is directed at remedying the breach of planning control by restoring the land to its former condition and what must be considered is whether the requirements exceed what is necessary to achieve that objective. The parties' representations do not lead me to any different conclusion.
25. The appellant submits that it is excessive to require the reinstatement of the parts of the building that have been removed. Whilst it is claimed that some parts had already disintegrated or fallen off, they have not been specifically identified with the precision required for a variation of the notice requirements. In any event, the Council's photographic evidence supports the view that these features were largely intact prior to the unauthorised works being carried out. As indicated above in relation to the appeal on ground (c), there is no substantial evidence before me to show that the unauthorised works were warranted by the condition of the building or that the works required to be reinstated by the corrected notice had, in fact, already been removed prior to the appellant's actions. Although the parts of the building that have been



removed may not affect its structure or integrity, I have found on ground (a), that their removal has had a significant adverse visual impact upon its external appearance.

26. I conclude that the requirements do not exceed what is necessary to remedy the breach of planning control. In the light of the conflict with development plan policies, it would not be disproportionate to require the appellant to carry out the steps required by the corrected notice. The appeal fails on ground (f).

**The appeal on ground (g)**

27. On ground (g), the appellant submits that the compliance period is too short and seeks a period of 12 months. A planning application has been lodged for a redevelopment proposal which might have to run through the appeal process.
28. The Council acknowledges that replacing the detailed features would involve sourcing similar materials which could take some time. However, it is concerned that the retention of the building in its current state for as long as a year could result in a deterioration of its condition. The Council therefore suggests that the compliance period should be extended to 6 months to allow the required materials to be sourced.
29. Given the detrimental visual impact resulting from the unauthorised works, it seems to me that the building should not be kept in its current state for any longer than should reasonably be allowed. In the light of the continuing harm which I have identified, to extend the compliance period beyond 6 months to enable the appellant to pursue a redevelopment scheme would be excessive.
30. Furthermore, s173A of the 1990 Act gives power to the local planning authority to extend the compliance period after the notice has taken effect should further time genuinely be needed. The extension of the compliance period to 6 months represents a proportionate response between the competing interests in this case. I conclude that the compliance period specified in the notice falls short of what should reasonably be allowed and it will be extended to 6 months. The appeal succeeds on ground (g) to this limited extent.

**Formal Conclusions**

31. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and variations and refuse to grant planning permission on the deemed application.

**Formal Decision**

32. The enforcement notice is corrected by deleting from the alleged breach of planning control set out in paragraph 3, and the reasons for issuing the notice set out in 4 b), the words "timber sash windows" and varied by deleting from paragraph 5 the words "timber sash windows" and by deleting from paragraph 5 the figure "2" and substituting therefor the figure "6". Subject to these corrections and variations, the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*Wendy McKay*  
INSPECTOR