

## **TOWN AND COUNTRY PLANNING ACTS 1990 (AS AMENDED)**

### **APPEAL BY MR ANDREAS CHARALAMBOUS**

#### **SITE AT 36 HEMSTAL ROAD, LONDON, NW6 2AL**

I write in connection with the above-mentioned appeal for 'the erection of single storey outbuilding in rear garden with off-street parking space on rooftop, single storey rear extension and single storey side extension and alteration to side (west) boundary wall in association with lower ground floor flat'.

The Council's case is set out in the delegated officer's report (ref: 2014/3644/P) which has already been sent with the questionnaire and is to be relied on as the principal Statement of Case.

Copies of the relevant Local Development Framework strategies, policies and supplementary planning guidance were also sent with the questionnaire.

In addition, I would be grateful if the Inspector would consider the contents of this letter which includes confirmation of the status of strategy, policy and guidance, comments on the grounds of appeal and further matters that the Council respectfully requests be considered without prejudice if the Inspector is minded to grant permission.

This letter relates to the reasons for refusal 1 -3.

#### **Reason for Refusal 1**

Reason for refusal 1 is described as follows:

*The proposed loss of an on street car parking space, installation of crossover and provision of an off street car parking space would increase pressure on street parking and encourage travel by private motor vehicles, failing to promote sustainable travel in an accessible location, contrary to the NPPF (2012), policy 6.13 of the London Plan (2011), Camden Core Strategy policy CS11 (Promoting sustainable and efficient travel) and Development Plan policies DP17 (Walking, cycling and public transport) and DP18 (Parking standards and limiting the availability of car parking).*

#### **Summary of the Council's Case**

The proposed vehicular crossover and off-street parking space for 1 private motor car would further encourage the use of unsustainable forms of transportation; would displace on-street overnight parking; and would result in an unacceptable loss of an on-street parking space in a Controlled Parking Zone (CPZ) that is identified as

being under pressure (or approaching being under pressure). This would add to parking stress in the local area.

The delegated report outlines the main considerations in respect of the proposal and the relevant planning policies. Further to the officer report, the site is located on Hemstal Road. There is currently no vehicular access to the site, as no vehicular crossover is provided in connection to this property. The site is located within the Kilburn CPZ (CA-Q), which operates between 0830 and 1830 hours on Monday to Friday. The immediate surrounding area has a high demand for on-street parking as defined by the Council's own survey data with a parking demand ratio of 0.81 (meaning 81 permits have been issued for every 100 on-street parking spaces). The site is easily accessible by public transport with a PTAL rating of 5 (very good). PTAL ratings vary between 1 (poor) and 6b (excellent).

The Inspector is advised that there is no restriction on existing residents living at the property from applying for on-street parking permits. The appellant confirms that the property is a 3 bedroom 6 person property. This would potentially allow 6 residents access to residents parking permits which would allow up to 6 private motor vehicles to be parked on-street within the controlled parking zone. Parking Services have been contacted and the Inspector can be advised that residents parking permits are not currently allocated to the property.

### **Status of Strategies, Policies and Planning Guidance**

The full text of the relevant strategies, policies and planning guidance were sent with the questionnaire documents. On 8th November 2010 the Council formally adopted the Camden Core Strategy and Camden Development Policies documents which form part of the Local Development Framework (LDF). These documents have been through an Examination in Public and the appointed Inspector found the documents to be sound in a decision published on 13th September 2010. Therefore at the time of the determination of this appeal 'The Development Plan', for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, comprises the Camden Core Strategy and the Camden Development Policies.

The relevant LDF policies as they relate to the reasons for refusal are:

- CS11 Promoting sustainable and efficient travel
- DP17 Walking, cycling and public transport
- DP18 Parking standards and limiting the availability of car parking
- DP19 Managing the impact of parking
- DP21 Development connecting to the highway network

In refusing the application the Council also refers to supporting guidance in Camden Planning Guidance document CPG7 (Transport) which was subject to public consultation and was approved by the Cabinet on 6 April 2011. CPG7 is available on the Council's website at the hyperlink below:

- <http://camden.gov.uk/ccm/content/environment/planning-and-built-environment/two/planning-policy/supplementary-planning-documents/camden-planning-guidance.en>

The Council's policies are recent and up to date and should be accorded full weight in accordance with paragraphs 214-216 of the NPPF. These policies and how they relate to this appeal case are outlined below in more detail.

In respect of relevant national policy, the NPPF states that the purpose of planning is to help achieve sustainable development (P11). There is a presumption in favour of sustainable development which should be approved without delay if it accords with the development plan or if the plan is absent, silent or relevant policies are out of date, grant permission unless "...any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole" or "...specific policies in this Framework indicate development should be restricted" (Para 14).

The core planning principles of the NPPF identifies 12 principles that should underlay plan-making and decision-taking including "...actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable..."

Paragraph 29 of the NPPF ('Promoting Sustainable Transport') states that "[t]ransport policies have an important role to play in facilitating sustainable development, but also in contributing to wider sustainability and health objectives."

Paragraph 30 states that "[e]ncouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion."

Paragraph 32 outlines matters to be taken into account in the consideration of development which generates significant amounts of movement. This states that "[d]evelopment should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

Clearly, this review of the NPPF demonstrates that sustainable development, a principle underpinning The Plan at the national level does not endorse schemes that encourage additional trips by private motor vehicles as in the case of this proposal and certainly not at the expense of more sustainable modes and in areas of good accessibility.

In terms of local strategy, policy and guidance considered relevant to this appeal, CS11 states that the Council will promote the delivery of transport infrastructure and

the availability of sustainable transport choices in order to support Camden's growth, reduce the environmental impact of travel, and relieve pressure on the Borough's transport network. In respect of making private transport more sustainable the Council's approach to minimise congestion and address environmental impacts of travel includes seeking to minimise provision of private parking in new development through car free developments in the Borough's most accessible locations and car capped development to ensure growth and development have regard to Camden's road hierarchy and does not cause harm to the management of the road network. The proposal is not considered to be new development but simply seeking to solely provide facilities for private motor vehicle parking. This would facilitate increased private motor vehicle use which would be completely at odds with the direction of the main policy aim.

CS11 states that the Council will continue to limit the amount of parking available for private motor cars. This represents a key part of our approach to addressing congestion, promoting sustainable transport choices, and facilitating the delivery of pedestrian and cycle improvements. Our approach to car parking will seek car-free development in the most accessible parts of the borough. We will also seek car-capped developments where provision of additional on-site parking would be harmful to on-street parking conditions.

The Core Strategy is supported by the Camden Development Policies. In respect of this proposal, DP17 follows on from Core Strategy CS11 in promoting walking, cycling and public transport use. Supporting sustainable travel is essential in order to reduce environmental impacts of travel and to relieve pressure on Camden's existing transport network. The proposals submitted would be considered to be dependent on travel by private motor vehicle as the applicant is seeking permission to provide an off-street parking space for 1 private car. The provision of off-street parking would create a greater reliance on travel by private car and is not considered to promote walking, cycling or public transport in relation to the Council's road user hierarchy.

DP18 states that the Council will seek to ensure that developments provide the minimum necessary car parking provision and that we expect development to be car free in town centres and "other areas within Controlled Parking Zones which are easily accessible by public transport". This is applicable to the application site as it is easily accessible by public transport. DP18 further states that where the need for car parking is accepted, development should not exceed the maximum car parking standards for the area in which it is located (excluding spaces designated for disabled people). It also states that the provision of electric vehicle charging facilities will be encouraged in such situations.

For car free and car capped developments, the Council will limit on-site car parking to spaces designated for disabled people, any operational or servicing needs and

spaces designated for the occupiers of development specified as car capped (DP18 part 'a', 'b' and 'c').

Car free developments are defined as those where no car parking is provided on site and where the occupants are prohibited from obtaining on-street parking permits from the Council. A car capped development is defined as one where a limited amount of parking is provided on site and no parking permits are issued. Paragraph 18.2 identifies that car free development can facilitate sustainability and wider objectives:

- Freeing space on site from car-parking, to allow additional housing, community facilities, play areas, amenity space and cycle parking,
- Enabling additional development where parking provision would not be acceptable due to congestion problems and on-street parking stress,
- Helping to promote alternative, more sustainable forms of transport.

Paragraph 18.5 of DP18 refers to the parking standards in Appendix 2 which specifies a maximum of 0.5 spaces per dwelling in Low Parking Provision areas (i.e. where sites are easily accessible by public transport). Bullet point 1 of paragraph 18.5 further confirms they are maximum standards "...to encourage people to consider all alternatives to private car travel". The site is well located for residents to consider alternatives to the private car, owing to its high PTAL rating. Further still, paragraph 18.6 of DP18 states "As we generally seek car free development in the Low Parking Provision Areas, we will only apply the car parking standards for these areas where a developer can demonstrate to the Council's satisfaction that such parking should be provided on site."

DP19 seeks to ensure that the creation of additional parking will not have negative impacts on parking, highways or the environment and will encourage the removal of surplus car parking spaces. This proposal seeks to create a new off-street parking area within the garden. It is noted that to enable the proposals to permit private motor vehicles to access the hard standing area, a vehicular crossover approval, under the Highways Act 1980, would also need to be considered alongside this application.

DP21 also expects works affecting the highway to avoid harm to on-street parking conditions or require detrimental amendment to Controlled Parking Zones (which would be considered as removal of publicly available on-street spaces requiring public consultation). Development should ensure adequate sightlines for vehicles leaving site and address the needs of wheelchair users and other people with mobility difficulties.

In addition to the specific transport policies above, Camden also has an approved Transport Strategy which forms the basis for the Local Implementation Plan. This

sits alongside the policy documents and provides the supporting information to the policies. In total the Camden Transport Strategy is based around nine broad Objectives. In context of this proposal, Objective 1 is highlighted to the Inspector. This states:

- “Reduce motor traffic and vehicle emissions to improve air quality, mitigate climate change and contribute to making Camden a ‘low carbon and low waste borough”.

The Camden Transport Strategy is available on the Council’s website at the hyperlink below:

- <http://www.camden.gov.uk/ccm/content/transport-and-streets/transport-strategies/camdens-local-implementation-plan.en>

The subject of this appeal is in effect for the creation of a vehicular crossover and a hard standing area to accommodate 1 off-street car parking space.

As a result of this proposal, 1 existing on-street parking space would be lost and the CPZ would require a detrimental amendment. The proposal would increase the level of motor vehicle traffic connected to this site, which would not support the Council’s objective of reducing motor vehicle traffic in the Borough.

The case put forward by the appellant, seeking private motor vehicle off-street parking has not sought to identify a demonstrable need why private off-street parking should be provided and the appellant’s position is discussed below.

### **Comments on the Grounds of Appeal**

A number of specific points are raised in the appellant’s grounds of appeal and these are addressed below.

#### The proposal is necessary as the needs of the appellant cannot be met by other means such as public transport

The Council does not accept this argument. The site is easily accessible by public transport. And there are good pedestrian routes between the site and the nearest transport interchanges. So there is no need to provide facilities which would encourage motor vehicle use instead of public transport. The appellant lives at the property and intends to work there once the previously approved scheme is implemented. So there is no need to provide facilities which would encourage motor vehicle use. The appellant is eligible to obtain a residents parking permit from the Council. This would allow a private motor vehicle to be parked on the public highway in the general vicinity of the property. So there is no need to provide dedicated off-street parking facilities. The majority of roads in the Borough are subject to a 20mph speed limit. And the appellant has expressed a willingness to provide cycle parking facilities within the site. So there is no need to provide facilities which would

encourage motor vehicle use instead of cycling. There are numerous car club vehicles located on the public highway within a reasonable walking distance from the site. The appellant and fellow residential occupiers could join one of the local car club schemes if there was an essential need to make trips by motor vehicle.

The proposal is necessary in order to allow the appellant to own an electric vehicle and to securely charge such a vehicle within the site

The Council does not accept the justification for on-site parking facilities. The Council has installed electric vehicle charging points at various locations throughout the Borough. In addition, other London Boroughs and Transport for London have also been installing such infrastructure on their road networks. The appellant would be able to use such electric vehicle charging points, free of charge.

There would be no net loss of car parking spaces

The applicant argues that the loss of 1 on-street parking space would be compensated by the provision of 1 off-street parking space. This is not accepted by the Council. The proposal would involve the loss of 1 on-street parking space which is currently available to residents holding parking permits and anyone holding a blue badge. In addition, the existing on-street parking space can currently be used by anyone outside of CPZ hours.

The proposal does not constitute new development. However, as detailed the property is divided into 3 flats, each of which has 2 bedrooms. Parking permits are issued in respect of individuals occupying the flats. There is currently no restriction on the number of on-street parking permits that can be applied for in connection to each of the flats.

Presently, it has been identified by the Council that parking permits have not been issued to any of the current occupiers. However, if 2 occupiers per flat applied for permits then a total of 6 private motor vehicles associated with the property could be parked on-street.

If the proposal for the vehicular crossover was successful then the number of private motor vehicles connected to this site could increase by 1 further motor vehicle. As there could be 6 on-street parking permits plus 1 further off-street parking space, increasing the level of private motor vehicle access. As a consequence the Council do not agree with this statement, as the proposal would lead to an increase in new private parking spaces.

The Council would also highlight that this statement is made in context of the existing occupiers of the property. There is no control over a future situation, which cannot predict the demand of new occupiers moving into the property, therefore stating that parking spaces required will not increase cannot be substantiated.

The appellant refers to an approved scheme at 16 Elsworthy Road (2012/4009/P) and suggests that the proposal for 36 Hemstal Road should be approved on this basis

It is accepted that there are similarities between the 2 sites. However, it is worth noting that the site at 16 Elsworthy Road has a PTAL rating of 2 (poor). This means that it is not easily accessible by public transport. On-site parking facilities for that site were deemed to be required by policy due to the PTAL rating being lower than 4 (sites with a PTAL rating of 4-6b being easily accessible by public transport).

The appellant refers to an approved scheme at 18 Prince Arthur Road (2012/0512/P) and suggests that the proposal for 36 Hemstal Road should be approved on this basis

It is accepted that there are similarities between the 2 sites. The site at 18 Prince Arthur Road has a PTAL rating of 6a (excellent). This means that it is easily accessible by public transport. The Council refused to grant planning permission for similar reasons to this application. It is acknowledged that the Inspector overturned the Council's decision and granted planning permission. However, it is worth noting that the proposal for 18 Prince Arthur Road did not actually involve any detrimental impact on the controlled parking zone. This was because the parking space located directly adjacent to the property was able to be relocated to a new location elsewhere in the local area. It is also worth noting that the Council failed to take the opportunity to make the case that the proposal was contrary to the NPPF requirements for development to be sustainable.

The appellant refers to various vehicular crossovers at other locations in the local area and appears to suggest that the proposal for 36 Hemstal Road should be approved on this basis

The applicant has submitted a series of photographs of existing vehicular crossovers at other locations in the local area. The Council holds records of vehicular crossover applications going back to 2001. We do not have any records of vehicular crossover applications being submitted for the properties detailed by the appellant. This suggests that the existing vehicular crossovers at these properties are long standing and have been in place for at least 14 years. Those vehicular crossovers were not therefore subject to the Council's assessment criteria (see Appendices). We cannot use the vehicular crossovers detailed by the applicant as an example of precedents being set as it is unclear what impact (if any) the introduction of those vehicular crossovers actually had on the public highway (e.g. loss of on street parking bays or pay & display bays).

The appellant is willing to accept a car capped restriction on the property if the proposal to provide an off-street parking space can be permitted



It is accepted that the proposal to car cap the property would have potential benefits. For example, it would prevent residential occupiers from obtaining residents parking permits from the Council. This would help to encourage walking, cycling and public transport as sustainable and efficient alternatives to the motor vehicle. However, taking into account recent case law in the form of Westminster City Council v SSCLG and Acons [2013], and paragraph 204 of the NPPF, Planning Obligations should only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development;
- Fairly and reasonably related in scale and kind to the development.

The Council has not been provided with a planning obligation that deals with this matter, nor is the Council convinced that even if this were possible, that it would comply with Section 106(1) of the Town and Country Planning Act 1990. It is worth noting that a similar proposal at 3 Fellows Road (Appeal Reference: APP/X5210/A/14/2213004) was refused by the Planning Inspectorate for this reason, among others (See Appendices).

The Council's car-free and car-capped policies are sought when there is new development and new occupiers. This is detailed in Camden Planning Guidance document CPG7 (Transport) – Section 5, Paragraphs 5.19 and 5.20. In addition, paragraph 5.5 of CPG7 states that 'Car-free or car-capped housing may be sought wherever development involves the creation of one or more additional dwellings – whether newly built, or created by a conversion or change-of-use'. In context of the proposals, the Council's ability to seek car-free and car-capped development in relation to this proposal would be considered as being unreasonable. Existing residents are eligible to apply for residents parking permits from the Council. The Council's policies would not be triggered to seek this as a mitigation measure.

As detailed above, the proposal would result in the loss of 1 on-street parking space available for all residents of the CPZ who are eligible to obtain residents parking permits and anyone in possession of a blue badge. This loss is not being compensated for on-street, and the mitigation measure proposed by the appellant is not considered reasonable by the Council. This is not a mitigation measure that the Council would normally seek in relation to a crossover application. It is considered that the existing residents would retain their existing parking permit rights and could continue to apply for on-street parking permits. As this is seen as an unreasonable mitigation measure, there would be no restriction placed on the existing resident's ability to apply for on-street parking permits. As a result this would increase the level of on-street parking stress within the CPZ. This would have a detrimental impact to the CPZ, as there would be a loss of 1 publicly available on-street parking space, brought about as a direct result of this proposal.

The appellant argues that the parking survey undertaken in support of the planning application demonstrates that the proposal would not have a detrimental impact on the operation of the controlled parking zone

The installation of a vehicular crossover would lead to the net loss of publicly available on-street parking spaces. On-street parking spaces can be used by many different people with different trip purposes throughout the day. Off-street parking spaces are private parking spaces and will generally only be used for one purpose, often by a specific vehicle, and will remain unused at other times.

The removal of 1 publicly available on-street parking space would be detrimental to the operation of the CPZ zone as this loss is not being compensated for. The creation of 1 new private off-street parking space is not considered by the Council as appropriate in context of the CPZ operation. The loss of 1 on-street parking space would result in an increased level of pressure on the CPZ for all residents holding residents parking permits and anyone holding a blue badge. The proposal would therefore result in a detrimental amendment to the CPZ.

The Council does not accept that the loss of publicly available on-street parking can be compensated for by displacing private vehicles to an off-street location. It is not considered a simple numbers equation (i.e. 1 on-street space = 1 off-street space). As detailed above, on-street parking is publicly available for all residents holding residents parking permits and anyone holding a blue badge, whereas off-street parking is only available for the individual householder on a private basis.

In addition, providing dedicated off-street private parking is not seen as minimising private car use or reducing congestion or improving the environment. Where private parking is provided, this places a greater reliance on the private motor car as a dedicated parking space is available at all times. This is considered as being unsustainable, as it encourages more private motor vehicle trips.

It is acknowledged that there are controlled parking zones elsewhere in the borough which suffer from more significant levels of parking stress. The parking survey was undertaken in accordance with the methodology of the London Borough of Lambeth. This methodology is accepted by the Council. It is acknowledged that that the results of the parking survey suggest that parking supply currently exceeds demand. However, the results of the parking survey represent a very localised and limited snap shot over a period of only two days and should not be relied upon as being representative of the wider controlled parking zone. Any decision needs to be fully considered in the context of the other issues discussed above.

#### Comparable sites elsewhere in the Borough

The Council refused to grant planning permission for a similar proposal at 3 Fellows Road (2013/5906/P). That decision (See Appendices) was subject to a similar

appeal to the one in front of the Inspector. The appeal was dismissed by the Inspector (Appeal Reference: APP/X5210/A/14/2213004).

### Other Material Planning Considerations

The Inspector is requested to consider the following material points in respect of the proposal as detailed in this appeal:

It should be noted that the approved scheme for 36 Hemstal Road (Planning Reference 2013/7360/P) originally came forward with the car parking proposal included. The car parking proposal was removed following advice from the transport officer (i.e. that the proposal should be recommended for refusal).

It is also worth noting that a tentative enquiry regarding the likelihood of a crossover application being granted was submitted to the Council on 18/03/14. A transport officer responded on 20/03/14 to confirm that a crossover application would not be supported as it would fail to meet the Council's set criteria for the assessment of crossover applications (see Appendices).

The above points should not be dismissed as being non-material, but the very opposite and given considerable weight. The proposal in front of the Inspector is more aligned with the previous crossover application enquiry made under the Highways Act 1980. As such, an almost identical application has effectively been refused already. The Highways Act considerations remain valid and relevant and should this application come forward under the Highways Act 1980 again it could be considered to be unacceptable under this separate requirement.

### *Conclusions*

In summarising the Council's case, the specific LDF strategies, policies and planning guidance have been reiterated and expanded upon below:

- CS11 Promoting sustainable and efficient travel: Providing a new off-street car park is contrary to the core strategy of promoting sustainable transport choices to reduce the environmental impact of travel, especially by private motor car;
- DP17 Walking, cycling and public transport: This development is considered to encourage and promote dependence on travel by private motor vehicles at the expense of other sustainable modes.
- DP18 Parking standards and limiting the availability of car parking: Camden's LDF requires developments such as this to be car-free. The Council does not accept that there is a necessity for the proposed off-street parking space, which would be at the expense of sustainable development and would add pressure to on-street parking conditions;

- DP19 Managing the impact of parking: The Council will resist development that would add to on-street parking demand or otherwise harm existing on-street parking conditions. It would result in the loss of existing publicly available on-street parking, which is contrary to point 'c' as it would harm existing on-street parking conditions and point 'd', would be a detrimental amendment to the existing CPZ control.
- DP21- Development connecting to the highway network. The Council will expect works affecting the highway to avoid harm to on-street parking conditions to Controlled Parking Zones, ensure adequate sightlines for vehicles leaving the site, address the needs of people with mobility difficulties. The proposals seeking a vehicular crossover would be considered contrary to points 'e', 'f' and 'g'.

It is respectfully requested that the Inspector dismiss the appeal having regard to the entirety of the Council's submissions including the content of this letter.

Without prejudice and in the event that the appeal is allowed, the Inspector is respectfully requested to consider the imposition of conditions (see Appendices).

If any further clarification or submissions are required, please do not hesitate to contact the undersigned by the direct dial telephone number or email address provided.

## **Reason for Refusal 2**

Reason for refusal 2 is described as follows:

*The proposed flat roof of the single storey outbuilding would create an increased opportunity to overlook the neighbouring property of 34 Hemstal Road to the detriment of their amenity, contrary to Policy CS5 (Managing the Impact of Growth and Development) of the London Borough of Camden Core Strategy and Policy DP26(Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Development Policies.*

## **Summary of the Council's Case**

Policies CS5 (Core Strategy) and DP26 (Development Policies) state that the council will protect the quality of life for existing and future occupiers, as well as neighbours by only granting permission for those developments that would not have a harmful effect on amenity. This is echoed by Section 7 of supplementary planning guidance CPG 6 (Amenity), require that regard is given for the amenity of existing and future occupants. Such issues include visual privacy, overlooking, overshadowing, outlook, sunlight, daylight and artificial light levels.

The proposal would undoubtedly create a greater possibility of overlooking directly into the rear garden and windows of the property at no.34 and into the rear gardens of other properties along Hemstal Road. At present the rear garden of the property is much lower in level. The use of the outbuilding roof area would amount to a terrace. Should permission be granted it would be difficult to enforce any condition governing the use of the roof effectively because it would be difficult to discern when exactly the space is being used for parking, maintenance or as a terrace. This may lead to noise and other discomfort to neighbours.

Therefore the development would also need to be assessed as a terrace. In so doing it would need to comply with terrace guidance set out in CPG 1 (p:45) and 6 (p:12, 21 and 37). These require that developments should be designed to protect the privacy of both new and existing dwellings to a reasonable degree. New buildings, extensions, roof terraces, balconies and the location of new windows should be carefully designed to avoid overlooking. Screening is often the most effect means. However screening is also a form of development that has an impact on the character of the area. Screening to the roof of the proposed outbuilding would give it an even greater incongruous appearance. Therefore the principal of the proposed roof top parking space must be objected to.

Furthermore CPG 1 states that *balconies and terraces should form an integral element in the design of elevations. The key to whether a design is acceptable is the degree to which the balcony or terrace complements the elevation upon which it is to be located. Consideration should therefore be given to the following: detailed design to reduce the impact on the existing elevation; careful choice of materials and colour to match the existing elevation; possible use of setbacks to minimise overlooking;; possible use of screens or planting to prevent overlooking of habitable rooms or nearby gardens, without reducing daylight and sunlight or outlook;(p: 45).*

However in this particular instance the development could not meet any of the above guidance.

### *Conclusion*

The proposed use of the flat use would have an adverse effect on the privacy levels of nearby properties and therefore, fails to comply with policies governing amenity.

### **Reason for Refusal 3**

Reason for refusal 3 is described as follows:

*The proposed single storey outbuilding by reason of its form and detailed design due to the overhanging roof and balustrade would appear as an incongruous addition to the rear garden, detracting from the character and appearance of the area and host*

*building, contrary to policy CS5(Managing the impact of growth and development) of the London Borough of Camden Core Strategy and Policy DP24 (Securing high quality design) of London Borough of Camden Development Policies.*

## **Summary of the Council's Case**

The Council stands by its original concerns regarding the design of the outbuilding in terms of the overhang. This element gives the development an overly dominant and disproportionate appearance in relation to the application site and garden area. It is simply out of the keeping with the character of the property and the area, as well as signifying poor design in the opinion of the planning department.

Although the property is not in a conservation area, good design is still an important consideration for all new developments in line with the Camden LDF. Policy CS14 requires that all alterations respect and enhance the character of the area and location. Therefore Council will only give permission to those developments that preserve or enhance the character and appearance of the area. This is further supported by policies CS5 of the Core Strategy and DP24 of the Development Policies which state that the Council will require all developments including alterations and extensions to existing buildings, to be of the highest design standards in terms of the character, siting, context and scale to the existing building and the general area.

The proposed use of outhouse come garage space has no similarity with any other developments in the area. It is unclear how the greenroof would be maintained given that a car would be parked on it. It also raises safety concerns, firstly because of how close the parking space is to the edge of the roof and because the proposed entrance is very close to the entrance of the flats next door and there is a tall wall that would block visibility for those exiting the flats at 29 Kylemore Road, until they are almost in line with the edge of the boundary wall. It is noted that the entrance gates have been set in by 1.5 metres, however the issue still remains that should the car reverse onto the main road it would be easy to miss a pedestrian. The development fails to consider the context of the proposed car parking space in this respect.

In addition, the development fails to consider the pattern of development in the area. In particular to the corner treatment at each block. The side of the properties have been set some way away from the main road at Kylemore Road and properties that face onto this part of Kylemore Road have an entrance that is much further down the road. There are 1.5 metre walls and planting to the boundaries to provide definition to the development pattern. The proposed off street parking space would disrupt this.

The design is also not sustainable. The NPPF states that a presumption in favour of sustainability should be the mantra of every planning assessment. Sustainability should be an integral part of good design and building development. Since the applicant is entitled to a parking permit and may park their electric car at street

level presently, the loss of an on street parking space that could be used by all in favour of one that can only be used by one is not a position that can be argued to be in line with sustainability practices.

### *Conclusion*

As a result, the proposed development would neither respect nor enhances the character of the area and location and therefore fails to respond positively to policies governing design.

Yours faithfully,

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