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## Appeal Decision

Site visit made on 22 June 2015

by **William Fieldhouse BA (Hons) MA MRTPI**

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

Decision date: 22 July 2015

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### Appeal Ref: APP/X5210/W/15/3004348

### 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 refusal to grant planning permission.
  - The appeal is made by 147 Kentish Town Road Limited against the decision of the Council of the London Borough of Camden.
  - The application Ref 2014/5900/P, dated 22 August 2014, was refused by notice dated 28 January 2015.
  - The development proposed is the reinstatement of the public house façade and extension and alteration to the property to accommodate B1/A2 use at basement and ground floor levels, and 8 residential units at first, second and third floor levels (C3 use).
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### Application for Costs

1. An application for costs was made by 147 Kentish Town Road Limited against the Council of the London Borough of Camden. That application is the subject of a separate decision.

### Decision

2. The appeal is allowed and planning permission is granted for the reinstatement of the public house façade and extension and alteration to the property to accommodate B1/A2 use at basement and ground floor levels, and 8 residential units at first, second and third floor levels (C3 use) at The Castle, 147 Kentish Town Road, London NW1 8PB in accordance with the terms of the application, Ref 2014/5900/P, dated 22 August 2014, subject to the conditions set out in the attached schedule.

### Preliminary Matters

3. A number of amended plans were submitted during the course of the planning application and formed the basis of the Council's decision. In response to comments made by the Kelly Street Residents Association, the appellant submitted some further revised plans at the appeal stage<sup>1</sup>. These clarify a number of detailed design issues and correct some minor discrepancies between the earlier plans. I am satisfied that they do not materially alter the

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<sup>1</sup> Revised plans ref GA-P-02 rev C; GA-E-01 rev D; and GA-S-01 rev E relating to first floor windows; location of front door; and clarification of an internal door.

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proposal and that no party's interests would be prejudiced if I treated them as part of the proposal. I have, therefore, dealt with the appeal accordingly.

4. A previous proposal, which would have involved the total demolition of the existing structure, including the two main facades on the Kentish Town Road and Castle Road frontages, and the erection of a larger building was dismissed on appeal last year<sup>2</sup>. At the time of my visit, scaffolding was erected around the building and work appeared to be underway repairing the ornate facades which I understand follows recent enforcement proceedings and an associated appeal<sup>3</sup>. In so far as they are relevant to the current scheme, which includes the retention of the two main facades and the erection of a smaller building to that previously proposed, I have taken account of the findings of my colleague Inspectors.
5. The Council refused planning permission for ten reasons, nine of which related to the lack of planning obligations that it considered were required to ensure that the proposal was acceptable in a number of respects and that financial contributions would be made towards infrastructure improvements. An executed section 106 agreement was submitted at the appeal stage which includes various planning obligations. On this basis, and in the context of the introduction of the Camden Community Infrastructure Levy (CIL) Charging Schedule on 1 April 2015, the Council no longer wishes to pursue those nine reasons for refusal. However, for me to take the planning obligations into account in coming to a decision they need to meet the three statutory tests referred to in paragraph 204 of the National Planning Policy Framework ("NPPF"). Despite having signed the section 106 agreement, the appellant has questioned whether in fact some of the obligations do indeed meet those tests. I return to this matter later in this decision

## **Main Issues**

6. The main issues are the effects that the proposal would have on the character and appearance of the area and on the living conditions of the occupants of nearby dwellings.

## **Reasons**

### *Character and Appearance*

7. The appeal site comprises a disused three storey building, which dates back to the mid 19<sup>th</sup> century, along with a more recent single storey rear extension and yard. The two main rendered facades exhibit fine strong detailing including rusticated quoins, window architraves with projecting cornices at first floor level and bracketed sills at second floor level, and a substantial cornice. These characteristics, along with the building's prominent location at the junction of the busy Kentish Town Road and mainly residential Castle Road, mean that it forms a local landmark. Whilst not a statutorily listed building, the main structure is a non designated heritage asset and is included on the Council's recently adopted local list.

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<sup>2</sup> Appeal ref APP/X5210/A/14/2211254 dismissed 8 May 2014.

<sup>3</sup> Appeal ref APP/X5210/C/13/2201362 dismissed 27 March 2014.

8. The proposed four storey new building would be situated behind the existing two main facades, occupy the whole of the site, and be significantly larger than that which currently exists. The modern roof would be visible above the existing parapets, and the area between the existing three storey structure and No. 3 Castle Road, which is currently open above the level of the flat roof of the rear extension, would be filled by the new, taller building.
9. However, whilst the two adjoining buildings (3 Castle Road and 141-145 Kentish Town Road) are currently three storeys in height, I am advised that both are expected to be extended upwards following recent planning approvals. Furthermore, there are other taller buildings and a variety of roof forms nearby, including the four storey building with a curved roof to the other side of Nos. 141-145, and the six storey buildings on the opposite side of the main road.
10. The rear part of the new building would be somewhat closer to the Castle Road carriageway than the retained side elevation. However, it would project no further than the single storey building that it would replace, and align with Nos. 3 and 5 Castle Road. Whilst it would be of obviously more modern design than the historic façade, it would not be overly large or dominant and its fenestration would reflect the layout, scale and proportions of the existing openings.
11. Council guidance advises that roof extensions should be architecturally sympathetic to the age and character of the building, and that whilst mansard roofs are often the most appropriate form of extension other forms of roof extension may also be appropriate in certain situations<sup>4</sup>. In this case, the fourth floor and roof would include sheer sides, metal cladding, and windows integrated into the plane of the elevations. However, it would be set back at least a metre, its parapet would be marginally below that of the existing, and its simple form would be consistent with the design of the remainder of the new building. Thus, whilst it would be clearly different to the sloping mansard roof likely to be constructed at No. 3 it would not appear unduly prominent or out of place in an area which is in part characterised by the juxtaposition of roofs of different shapes and heights.
12. For the reasons given above, I am satisfied that the proposal would not detract from the Castle Road street scene. From Kentish Town Road, the two historic facades would remain the dominant features on the site. The set back of the proposed fourth floor and roof from the existing parapets, and the distance of the projecting rear part of the building from the main road, would mean that these additions would not appear overly dominant and that they would be seen from only a limited number of vantage points.
13. Thus, provided appropriate materials were used on the external elevations of the new building, which could be ensured by a planning condition if the appeal were to be allowed, the proposal would not detract from the existing qualities of the retained facades or the wider area. Indeed, by bringing the disused site and non designated heritage asset back into a viable use the proposal as a whole would help to preserve and enhance local character and distinctiveness.

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<sup>4</sup> CPG1: Design (2013), paragraphs 5.7 and 5.15.

14. The Residents Association is concerned that the submitted plans are lacking in detail, including in terms of the design of openings, materials and the potential addition of flues, vents and other plant. However, the plans are appropriate and proportionate for a scheme such as this, planning conditions could ensure the submission of additional details, and any further significant additions or alterations to the design would be a matter for the Council to consider.
15. I conclude on this issue that the proposal would not materially harm the character or appearance of the area and would be consistent with the objectives of national policy<sup>5</sup>, policies CS5, CS14, DP24 and DP25 of the Camden Local Development Framework ("LDF")<sup>6</sup>, and associated guidance<sup>7</sup> which collectively seek to protect and enhance Camden's environment and heritage and require development to be of the highest standard of design that respects local context and character.

#### *Living Conditions*

16. The proposal would result in a wider and taller building in what is currently a largely open area between the rear of the existing three storey structure and 3 Castle Street. On the opposite side of the road are residential properties in a three storey building with windows close to the road. The proposal would, therefore, affect the outlook from the nearby windows. However, whilst the new building would be to the south of the dwellings, the road is around 14 metres wide meaning that any loss of daylight and sunlight would be minimal. Furthermore, the intervening distance and the height of the proposal would mean that it would not have an unduly overbearing effect or otherwise affect the outlook from the residential windows to an unacceptable extent.
17. I conclude on this issue that the proposal would not create unacceptable living conditions for the occupants of nearby dwellings and would be consistent with the objectives of national policy<sup>8</sup> and LDF policies CS5 and DP26 which collectively seek to ensure that the quality of life of local communities is protected and enhanced, and a good standard of amenity for the occupants of buildings having regard to overshadowing, sunlight, daylight and outlook.

#### *Planning Obligations*

18. The section 106 agreement submitted at the appeal stage includes obligations relating to car free housing; environmental sustainability; a construction management plan; highways improvements; a travel plan; the retained facades; and a basement construction plan. Following the introduction of the Camden CIL Charging Schedule the Council advises that it would no longer be appropriate for financial contributions to be made towards public open space and education facilities and I have no reason to reach a different conclusion.
19. I turn now to consider whether each of the obligations would be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the

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<sup>5</sup> NPPF sections 7 and 12.

<sup>6</sup> Camden Core Strategy 2010-2025 and Camden Development Policies 2010-2025.

<sup>7</sup> CPG1: Design (2013).

<sup>8</sup> NPPF paragraph 17, 4<sup>th</sup> bullet point.

development<sup>9</sup>. In so doing I will have regard to relevant development plan policies and associated guidance<sup>10</sup>.

20. The site is in an area which is easily accessible by public transport and which is a controlled parking zone that is already at capacity. LDF policy DP18 states that in such locations development will be expected to be car free, and the planning obligation would ensure that future occupants of the building would not be issued with parking permits other than in the case of the disabled. I am satisfied that this is reasonable and necessary in the interests of safety and congestion. Furthermore, the obligation contains mechanisms to assist implementation, the Council has not expressed any concerns about enforcement, and I have no good reason to come to a different conclusion. On this basis, each of the tests are met.
21. A number of documents relating to environmental sustainability were submitted with the planning application. Notwithstanding this, the obligation would require the submission of an energy efficiency and renewable energy plan and for this to be approved by the Council. This would be in accordance with LDF policies CS13 and DP22 and chapter 5 of the London Plan and ensure that the development achieved the standards set out in the development plan. I do not consider this to be an unreasonable or unduly onerous requirement bearing in mind that much of the necessary technical work appears to have been done. This obligation is therefore in accordance with the three tests.
22. Similarly, whilst much of the technical work may already have been done, the obligation relating to a construction management plan is reasonable and necessary to ensure that all of the necessary arrangements are in place and will be implemented, including those relating to off-site activities, in order to safeguard highway safety and the living conditions of local residents.
23. An obligation would require a financial contribution of £14,653 to carry out highway works in the vicinity of the site, including repaving the footway and other works required as a direct result of the development. LDF policy DP21 requires the repair of any construction damage to transport infrastructure or landscaping and the reinstatement of all affected transport network links and road and footway surfaces following development. Whilst the Council advises that the sum is based on an estimate by the Borough Engineer and takes account of the particular characteristics of the proposal, I have not been provided with sufficient information to demonstrate that it would be fairly and reasonably related in scale and kind to the proposal, or that the "five obligation limit" under CIL regulation 123(3)(b) would be complied with. I have not, therefore, taken this obligation into account in coming to my decision.
24. An obligation would ensure the submission and implementation of a travel plan which would help to facilitate the use of sustainable forms of transport and mitigate the impacts of the proposal on transport infrastructure in accordance with LDF policies CS11, CS19, DP18 and DP19. This would comply with the three tests.
25. An obligation would include mechanisms to ensure the protection of the front facades. As their retention is an integral part of the proposal, this is

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<sup>9</sup> NPPF paragraph 204.

<sup>10</sup> CPG8: Planning Obligations.

reasonable and necessary notwithstanding the fact that documents have already been prepared relating to this issue as it would afford appropriate protection to the non designated heritage asset.

26. For similar reasons, and given that the works likely to be involved in the basement development could affect the structural stability of the retained facades, I am satisfied that the obligation relating to a detailed basement construction plan meets the three tests.
27. In summary, therefore, I find that all of the obligations set out in the section 106 agreement, other than that relating to a financial contribution for highway works, comply with the relevant legal and national policy tests. I have taken the section 106 agreement into account accordingly.

#### *Other Matters*

28. A number of local residents are concerned at the way in which the building has been treated in recent years, the manner in which proposals have been brought forward, and believe that the recent appeals relating to the site indicate that the current scheme should not be allowed. Furthermore, some believe that, as a public house has been on the site for hundreds of years, such a use should continue. However, I have considered the proposal on its own merits, and am satisfied that my overall conclusions are consistent with the findings of the previous Inspectors. The Council is satisfied that there is no overriding reason why a public house use should be retained on the site and I have been provided with no substantive evidence to indicate why that should be so or why a scheme that would provide new homes and employment opportunities should be prevented.

#### *Conditions*

29. I have considered the conditions suggested by the Council and agree that most are necessary, subject to some alterations to improve clarity and ensure consistency with national policy and guidance<sup>11</sup>.
30. The Council has suggested that development should commence within six months. However, in the absence of any clear and convincing explanation for why this is necessary I am not persuaded that a departure from the standard timescale of three years would be reasonable.
31. A condition listing the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. However, it is not appropriate to require compliance with supporting documents submitted with the application as this would not be precise in terms of what would actually be required and because details relating to some of the matters addressed in those documents are the subject of other planning conditions and obligations.
32. In order to safeguard the character and appearance of the area, details of all external materials need to be submitted to and approved by the Council. However, this can be ensured by a single condition rather than the three suggested by the Council.

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<sup>11</sup> NPPF paragraphs 203 and 206, and Planning Practice Guidance ID 21a: *Use of Planning Conditions*.

33. Details of windows, doors, shopfronts, lights, photovoltaic cells, and any utility infrastructure plant or equipment should also be provided to and approved by the Council for the same reason. Given that a planning obligation requires the submission and approval of a renewable energy plan it is not necessary for the provision of photovoltaic cells to be required by condition.
34. Details of waste facilities are required to protect highway safety, prevent pollution, and to safeguard the character and appearance of the area.
35. Cycle storage facilities of appropriate design should be provided in order to ensure that future occupants have suitable access to non-car modes of transport and to protect the character and appearance of the area.
36. A programme of archaeological investigation is required in order to ensure that any heritage assets on or beneath the site are appropriately protected and dealt with.
37. A condition relating to noise from the proposed commercial uses during the night is required to ensure satisfactory living conditions for residents in adjoining dwellings. Details of the proposed air source heat pumps are required in order to ensure they are of appropriate design and specification for the same reason. However, the purpose of and justification for an additional condition relating to noise from plant/equipment as suggested by the Council are not clear and I am not therefore persuaded that it is also necessary.

### **Conclusion**

38. For the reasons given above, I conclude that the appeal should be allowed.

*William Fieldhouse*

INSPECTOR

## Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P683-S152; P683-S150; GA-S-01-E; GA-S-02-C; GA-S-03-C; GA-S-04; GA-E-01-D; GA-P--1-E; GA-P-00-F; GA-P-01-D; GA-P-02-C; GA-P-03-C; and GA-P-04-D.
- 3) No development shall take place until details of the materials to be used in the construction of the external surfaces of all parts of the building hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of all external doors, windows, shopfronts, photovoltaic cells, lights, meter boxes, flues, vents, pipes, telecommunications equipment, alarm boxes, television aerials, satellite dishes and any other plant and equipment to be installed or fitted to the building have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until details of the storage and means of removing waste and recycling materials have been submitted to and approved in writing by the local planning authority. The facilities as approved shall be provided prior to the first occupation of the building and thereafter retained.
- 6) No development shall take place until details of cycle storage facilities have been submitted to and approved in writing by the local planning authority. The facilities as approved shall be provided prior to the first occupation of the building and thereafter retained.
- 7) No development shall take place until a scheme for a programme of archaeological investigation has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme.
- 8) No development shall take place until details of the air source heat pumps, including of their specifications, location, noise levels and noise attenuation, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) No sound emanating from the ground and first floor commercial units hereby approved shall be audible within any of the adjoining premises between 23.00 and 07.00 hours.

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*End of schedule of conditions*