



Appeal Decisions

Site visit made on 6 August 2015

by **R J Maile BSc FRICS**

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

Decision date: 19 August 2015

Appeal A Ref: APP/X5210/W/15/3011324 239 Camden High Street, London, NW1 7BU.

- 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 Barack Holdings against the decision of the Council of the London Borough of Camden.
 - The application ref: 2014/6046/P, dated 24 September 2014, was refused by notice dated 3 March 2015.
 - The development proposed is change of use for the 1st floor to become part of the KFC trading area and extension to the rear for staff and storage areas. 2nd floor for storage and plant. Works to both floors ancillary to the existing trading KFC restaurant and takeaway on the ground floor. Replace and upgrade plant, equipment and extract. Install a new shopfront to KFC on ground floor, new window to new opening on 1st floor to match existing detail. 2nd floor windows remain as existing. Install new awning and replace rear security doors.
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Appeal B Ref: APP/X5210/W/15/3011326 237 Camden High Street, London, NW1 7BU.

- 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 Barack Holdings against the decision of the Council of the London Borough of Camden.
 - The application ref: 2014/6049/P, dated 24 September 2014, was refused by notice dated 2 March 2015.
 - The development proposed is change of use and works required for conversion of 237 to become an ice cream parlour 'Amorino' on the ground floor serving customers as a takeaway with a small seating area and the 1st floor as ancillary office/storage together with the conversion of the 2nd floor areas to also become office and storage areas ancillary to the ground floor use. Form a new opening shopfront with new DDA door to the ground floor. Form wider window openings to both 1st and 2nd floors to match existing detail. Adapt the existing roof to form access to the 1st floor, reform the roof light to the rear and replacement plant. Reposition the rear fire exit door to the ground floor.
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Decisions

Appeal A Ref: APP/X5210/W/15/3011324

1. The appeal is allowed and planning permission is granted for change of use for the 1st floor to become part of the KFC trading area and extension to the rear
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for staff and storage areas. 2nd floor for storage and plant. Works to both floors ancillary to the existing trading KFC restaurant and takeaway on the ground floor. Replace and upgrade plant, equipment and extract. Install a new shopfront to KFC on ground floor, new window to new opening on 1st floor to match existing detail. 2nd floor windows remain as existing. Install new awning and replace rear security doors at 239 Camden High Street, London, NW1 7BU in accordance with the terms of the application ref: 2014/6046/P, dated 24 September 2014, subject to the conditions set out in Annex A to this decision.

Appeal B Ref: APP/X5210/W/15/3011326

2. The appeal is allowed and planning permission is granted for change of use and works required for conversion of 237 to become an ice cream parlour 'Amorino' on the ground floor serving customers as a takeaway with a small seating area and the 1st floor as ancillary office/storage together with the conversion of the 2nd floor areas to also become office and storage areas ancillary to the ground floor use. Form a new opening shopfront with new DDA door to the ground floor. Form wider window openings to both 1st and 2nd floors to match existing detail. Adapt the existing roof to form access to the 1st floor, reform the roof light to the rear and replacement plant. Reposition the rear fire exit door to the ground floor at 237 Camden High Street, London, NW1 7BU in accordance with the terms of the application ref: 2014/6049/P, dated 24 September 2014, subject to the conditions set out in Annex B to this decision.

Main Issue

3. The main issue in respect of both appeals is whether the net loss of residential floorspace in this location should be resisted.

Reasons

4. These properties comprise two adjacent commercial units at ground floor level that are currently occupied by the appellant company as a Kentucky Fried Chicken franchise with two floors of accommodation over. They are located within Camden Town Centre, which is a designated Primary Retail Frontage.
5. The first and second floors of both units are accessed from a separate entrance in the front façade of no. 237. They are in poor condition and require extensive refurbishment, being unsuitable in their current state for residential use. The upper floors have at various times been occupied for residential purposes.
6. The surrounding area is wholly commercial in character at ground floor level, whilst the upper floors comprise a mixture of ancillary storage/offices and residential uses. The neighbouring properties at 235 and 241 Camden High Street comprise retail units at ground floor level with ancillary storage on the upper floors.
7. There is some dispute as to the permitted use of the upper floors to both units and whether a planning permission for use of the accommodation as a single self-contained flat granted in April 2000 was ever implemented.

8. Notwithstanding the planning history of these units, it is necessary to consider the current appeals by reference to both national and Development Plan policy and the observations made during my site visit.
9. Policies CS6 of the Core Strategy¹ and DP2 of the Development Policies² accord with the thrust of Policy 3.14 of the London Plan and Chapter 6 of the National Planning Policy Framework ('the Framework'). All seek to boost significantly the supply of housing.
10. Paragraph 51 of the Framework encourages Local Authorities to identify and bring back into residential use empty housing and buildings. This is exemplified by Policy DP2 of the Development Policies, which seeks to maximise the supply of additional homes in the Borough and at the same time to minimise the loss of such accommodation by protecting residential uses from development that would involve a net loss of residential floorspace. Core Strategy Policy CS6 sets out the Council's aim to make full use of Camden's capacity for housing.
11. I fully support the policy objectives set out above. However, it is necessary to consider each case upon its individual merits.
12. The existing first and second floors are poorly laid out and in a very neglected condition. They could not be used for residential purposes without considerable expenditure. Even with such an outlay they are not ideally suited to residential use having regard to their town centre location above existing A3/A5 uses and with extractor equipment to deal with cooking fumes located on the flat roofed areas to the ground floor commercial accommodation.
13. National policy in the Framework also supports economic growth (Chapter 1) and the vitality of town centres (Chapter 2). Given the layout of the ground floor accommodation and the established use, it is clear that there is a need for associated storage and office space to support the permitted A3/A5 restaurant uses. On balance, therefore, and whilst the loss of residential floorspace is to be regretted, for the reasons given above I have concluded that it is justified in the particular circumstances of this case.
14. Accordingly, I find on the main issue that given the poor residential credentials of the upper floors of both units, the net loss of residential floorspace in this location should not be resisted and that in this instance an exception to policy is warranted.

Other Matters

15. I note the Council has raised no objections to the rear extensions, alterations to the rear parapet or to the shopfront alterations. I agree with its assessment as to the enhancement these works would bring to the properties.
16. I have been referred by the Council to two other instances where its policies for the retention of residential floorspace have been upheld at appeal. However, the circumstances of those cases can be differentiated from the schemes before me in a number of important respects.

¹ Camden Local Development Framework: Core Strategy 2010.

² Camden's Local Development Framework: Development Policies 2010.

17. In particular, I note that they both related to the conversion, respectively, of six self-contained flats and five self-contained flats to a single dwelling. There was no suggestion that those properties were in poor condition and in both instances they were sited within established residential areas.

Conditions

18. The Council has put forward a total of six conditions in respect of both appeals. These are identical in each case with the exception of Condition 6 as imposed, which requires compliance with the approved plans.

19. I have considered the conditions against the tests of the Framework and advice provided by the Government's Planning Practice Guidance (March 2014). I find all of them to be reasonable and necessary in the circumstances of these cases, although I have amended their wording where required.

20. My reasons for the conditions, which are common to both appeals, are:

21. Condition 1 is the standard commencement condition imposed in accordance with section 91(1) (a) of the Town and Country Planning Act 1990. Conditions 2 and 5 will ensure a satisfactory appearance to the completed development in the interests of the visual amenities of the area, while Conditions 3 and 4 will safeguard the amenities of adjoining occupiers.

22. As to Condition 6, otherwise than as set out in these decisions and conditions it is necessary that the developments shall be carried out in accordance with the approved plans, both for the avoidance of doubt and in the interests of proper planning.

Conclusion

23. For the reasons given above, I conclude that the appeals should be allowed.

R. J. Maile

INSPECTOR

Schedule of Conditions

Annex A

**Appeal ref: APP/X5210/W/15/3011324:
239 Camden High Street, London, NW1 7BU.**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Unless otherwise specified in the approved plans all new external work shall be carried out in materials that resemble as closely as possible in colour and texture those used in the existing building.
- 3) The use hereby permitted shall not take place outside the following hours:
0900 – Midnight: Mondays to Saturdays; and
0900 – 2200: Sundays and Bank Holidays.
- 4) Noise levels at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable discrete continuous note (e.g. whine, hiss, screech, hum) and/or if there are distinct impulses (e.g. bangs, clicks, clatters, thumps), in which case the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A).
- 5) Otherwise than as authorised by this permission no lights, meter boxes, flues, vents or pipes and no telecommunications equipment, alarm boxes, television aerials, satellite dishes or rooftop 'mansafe' rails shall be fixed or installed on the external face of the building without the prior written approval of the Local Planning Authority.
- 6) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing no.

2188/G012: Site Location Plan – scale 1:1250; Block Plan – scale 1:500.

2188/G099: Existing Floor Plans – scale 1:100.

2188/G210 Rev D: Existing and Proposed Shop Front Elevations to 237-239 Camden High Street – scales 1:50 and 1:20 @ A1.

2188/G211 Rev C: Existing and Proposed Rear Elevations to 237-239 Camden High Street – scale 1:200 @ A3.

2188/PL301 Rev A: Proposed Floor Plans of 239 Camden High Street – scale 1:100 @ A3.

- Topographical Survey of 237-239 Camden High Street – scale 1:100.

Schedule of Conditions

Annex B

Appeal ref: **APP/X5210/W/15/3011326:** **237 Camden High Street, London, NW1 7BU.**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Unless otherwise specified in the approved plans all new external work shall be carried out in materials that resemble as closely as possible in colour and texture those used in the existing building.
- 3) The use hereby permitted shall not take place outside the following hours:
0900 – Midnight: Mondays to Saturdays; and
0900 – 2200: Sundays and Bank Holidays.
- 4) Noise levels at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable discrete continuous note (e.g. whine, hiss, screech, hum) and/or if there are distinct impulses (e.g. bangs, clicks, clatters, thumps), in which case the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A).
- 5) Otherwise than as authorised by this permission no lights, meter boxes, flues, vents or pipes and no telecommunications equipment, alarm boxes, television aerials, satellite dishes or rooftop 'mansafe' rails shall be fixed or installed on the external face of the building without the prior written approval of the Local Planning Authority.
- 6) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing no.

2361/G012:	Location Plan – scale 1:1250; Block Plan – scale 1:500; Topographical Survey of 237-239 Camden High Street – scale 1:100.
2361/G210 Rev C:	Existing and Proposed External Elevations for 237-239 Camden High Street – scale 1:100 @ A3.
2361/G211 Rev B:	Existing and Proposed Rear Elevations of 237-239 Camden High Street – scale 1:200 @ A3.
2361/G100 Rev H:	Proposed Floor Plans of 237 Camden High Street – scale 1:100 @ A3.
-	Topographical Survey of 237-239 Camden High Street – scale 1:100.