



# **Appellant's Statement of Case**

APPEAL BY MR R. SCAFF

AT

FLAT 5, 45 PILGRIM'S LANE, LONDON

NW3 1SR

**LPA REF: 2015/2769/P**

Prepared by:

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## **1.0 THE PROPOSAL**

1.1 The proposal is for the creation of a third floor rear roof terrace to the existing flat roof, associated installation of 2 x privacy screens with glass balustrade, a replacement of existing window with a French door at Flat 5, 45 Pilgrim's Lane, London, NW3 1SR. ('The Site').

1.2 A full planning application ('The Application') was submitted on 19 June 2015 to the Local Planning Authority [London Borough of Camden Council] ('The LPA'). The LPA refused to grant permission on 6 October 2015 for the following reason:

*"The proposed privacy screens and balustrade, by virtue of their position, materials and detailed design, would harm the appearance of the host building and the character and appearance of the Hampstead Conservation Area, contrary to policies CS5 (Managing the impact of growth and development), CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Core Strategy; DP24 (Securing high quality design) and DP25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Development Policies and Camden Planning Guidance Design CPG1, dated July 2015".*

1.3 A copy of the associated decision notice is attached to Appendix GC-1.

1.4 After an assessment of local plan policies and the content of the decision notice, the appellant contends that the main determining issue, in this case, is the impact upon the character and appearance of the area.

## **2.0 STATUTORY CONSTRAINTS**

2.1 The site lies within a Conservation Area. Therefore there is a statutory duty under the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to give special attention to the desirability of preserving or enhancing the character or appearance of the area.

### **3.0 PLANNING POLICIES**

#### **Development Plan Policies**

3.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be determined in accordance with the Development Plan unless material considerations indicate otherwise. The development plan for the London Borough of Camden comprises the Camden Development Policies (2010) and the Core Strategy (2010).

3.2 The Council has referred to the following policies in their decision notice:

#### **Camden Development Policies (2010)**

##### **Policy DP24 – Securing High Quality Design**

3.3 The Council will require all developments, including alterations and extensions to existing building, to be of the highest standard of design and will expect developments to consider:

- Character, setting, context and the form and scale of neighbouring buildings;
- The character and proportions of the existing building, where alterations and extensions are proposed;
- The quality of materials to be used;
- The provision of visually interesting frontages at street level;
- The appropriate location for building services equipment;
- Existing natural features, such as topography and trees;
- The provision of appropriate hard and soft landscaping including boundary treatments;
- The provision of appropriate amenity space; and
- Accessibility.

##### **Policy DP25 – Conserving Camden's Heritage**

3.4 Conservation Areas:

In order to maintain the character of Camden's conservation areas, the Council will:

- Take account of conservation area statements, appraisals and management plans when assessing applications within conservation areas;
- Only permit development within conservation areas that preserves and enhances the character and appearance of the area;
- Prevent the total or substantial demolition of an unlisted building that makes a positive contribution to the character and appearance of the conservation area, unless exceptional circumstances are shown that outweigh the case for retention;
- Not permit development outside of a conservation area that causes harm to the character and appearance of that conservation area; and
- Preserve trees and garden spaces which contribute to the character of a conservation area and which provide a setting for Camden's architectural heritage.

### **Camden Core Strategy (2010)**

#### **Policy CS5 – Managing the Impact of Growth and Development**

3.5 The Council will manage the impact of growth and development in Camden. We will ensure that development meets the full range of objectives of the Core Strategy and other Local Development Framework documents, with particular consideration given to:

- (a) Providing uses that meet the needs Camden's population and contribute to the borough's London-wide role;
- (b) Providing the infrastructure and facilities needed to support Camden's population and those who work in and visit the borough;
- (c) Providing sustainable buildings and spaces of the highest quality; and
- (d) Protecting and enhancing our environment and heritage and the amenity and quality of life of local communities.

The Council will protect the amenity of Camden's residents and those working in and visiting the borough by:

- (e) Making sure that the impact of developments on their occupiers and neighbours is fully considered;

(f) Seeking to ensure development contributes towards strong and successful communities by balancing the needs of development with the needs and characteristic of local areas and communities; and

(g) Requiring mitigation measures where necessary.

**Policy CS14 – Promoting High Quality Places and Conserving our Heritage**

3.6 The Council will ensure that Camden's places and buildings are attractive, safe and easy to use by:

- Requiring development of the highest standard of design that respects local context and character;
- By preserving and enhancing Camden's rich and diverse heritage assets and their settings, including conservation areas, listed building, archaeological remains, scheduled ancient monuments and historic parks and gardens;
- Promoting high quality landscaping and works to streets and public spaces;
- Seeking the highest standards of access in all buildings and places and requiring schemes to be designed to be inclusive and accessible;
- Protecting important views of St Paul's Cathedral and the Palace of Westminster from sites inside and outside the borough and protecting important local views.

**Supplementary Planning Guidance**

**Camden Planning Guidance 1: Design**

3.7 This SPD provides detailed guidance and standards information in relation to residential extensions and alterations, and roofs, terraces and balconies.

**National Planning Policy Framework**

3.8 The introduction of the Framework does not change the statutory status of the Development Plan as the starting point for decision taking. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

3.9 The Framework constitutes guidance for local planning authorities and decision-takers both in drawing up plans and as a material consideration in determining applications.

3.10 Paragraph 7 of the Framework stipulates the three dimensions to sustainable development: economic, social and environmental.

3.11 Paragraph 14 of the Framework states, "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking".

For the decision taking-process this means that unless material considerations indicate otherwise:

"Approving development proposals that accord with the development plan without delay; and

Where the development plan is absent, silent or relevant policies are out-of-date, granting 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".  
(Reference is made to footnote 9) – Paragraph 14.

3.12 Paragraph 17 sets out core planning principles. These include achieving a good standard of amenity of existing and future occupants of land and buildings, promoting the vitality of main urban areas, encouraging effective use of land by reusing land that has been previously developed, managing patterns of growth by making the fullest possible use of public transport, walking and cycling.

3.13 Paragraphs 56 to 68 address the requirement for good design.

3.14 Paragraphs 126 to 141 set out policy for development affecting heritage assets.

3.15 Paragraph 128 states *“in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.”*

3.16 Paragraph 129 states *“local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal.”*

3.17 Paragraph 131 sets out three matters that local planning authorities should take account of when determining planning applications. These are:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- The positive contribution that conservation and heritage assets can make to sustainable communities including their economic vitality; and
- The desirability of new development making a positive contribution to local character and distinctiveness.

3.18 Paragraph 132 indicates that great weight should be given to the conservation of heritage assets. The more important the asset, the greater the weight should be. *“Significance can be harmed or lost through alteration or destruction of the heritage asset of development within its setting.”*

3.19 Paragraph 133 stipulates that where a proposal would lead to significant harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent. Whereas, paragraph 134 proposes that where a development proposal will lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

3.20 Paragraph 196 confirms that the planning system is plan led and that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Once such material consideration is the National Planning Policy Framework.

#### **4.0 ANALYSIS**

4.1 The main determining issue in this case is the effect of the proposal upon the character and appearance of the area. The appellant notes that the officer's delegated report contends that the scheme would have an adverse effect upon the living conditions of neighbours; however, the LPA's decision notice is clear that the determining issue is the effect upon the character and appearance of the area only.

4.2 The appeal site comprises a five-storey end of terrace building located on the western side of Pilgrim's Lane, close to the junctions with Denning Road and Willow Road. The building houses five self-contained flats and it is also of note that the building is not listed.

4.3 The proposal would improve the standard of living accommodation by providing a small area of outdoor private amenity space in the form of a roof terrace for the enjoyment of occupiers of the flat which is acknowledged in development plan policies, including the Council's Conservation Guidance attached to Appendix GC-2.

4.4 Pilgrim's Lane primarily consists of a mixture of three and four storey Victorian dwelling-houses. Over time, a number of these dwellings, including the appeal building have been converted into self-contained flats. Adjoining the appeal building



is No. 43 Pilgrims Lane. To the rear of the site (where the roof terrace is proposed) are the rear elevations and rear garden areas of a number of neighbouring properties that front Willow Road and Denning Road.

4.5 The LPA allege that by virtue of the position, materials and design of the proposed privacy screens and balustrade, this would be unsympathetic to the host building and the character and appearance of the Hampstead Conservation Area. The appellant contends that the design of the proposed roof terrace and choice of materials was justified by the presence of similar designs and materials found at nearby neighbouring properties, particularly in Pilgrim's Lane and Denning Road. It is argued that the presence of a number of roof terraces utilising glass-based materials is a characteristic that contributes towards the overall make-up of the character and appearance of the area and this is a material consideration in the assessment of this appeal. Photographs of examples of these roof terraces using similar glass-based materials to those that are proposed are attached to Appendix GC-3.

4.6 The case officer's report suggests that an appropriate material would be wrought iron balustrades rather than glass. The report states "constructed entirely from glass, the balustrade and privacy screens also consist of materials entirely unsympathetic to their setting within Hampstead Conservation Area, where traditional detailing such as wrought iron railings is more characteristic". In this connection, the appellant contends that the use of wrought iron in these circumstances would result in a demonstrable harmful effect upon the living conditions of neighbours as the wrought iron balustrades provide limited mitigation against the a loss of privacy or overlooking. Furthermore, the use of wrought iron balustrades for roof terrace is not a traditional design feature. The concept of roof terraces are a relatively modern feature so for the officer to suggest that use of wrought iron balustrade around a roof terrace is a traditional detail is factually wrong. The weight accorded to this comment should be limited. The LPA's Conservation Guidance makes no reference to the requirement to provide wrought iron around roof terraces. The appellant contends that the use of wrought iron balustrades would be seen as pastiche. On the other hand, the use of glazing will add a contemporary twist to an otherwise traditional building, thereby clearly

establishing the extension as a modern intervention. It is also argued that the use of glazing is a soft material (visually) and therefore the proposal would appear subservient, and respect the integrity of the original building.

- 4.7 By virtue of the position of the proposed roof terrace to the rear of the appeal building, it is argued that the roof terrace would not have long views from the street scene or any public vantage points. In this connection, the roof terrace would have a minimal impact upon the character and appearance of the conservation area to an extent that it would not result in any material harm.

## **5.0 CONCLUSION**

- 5.1 The roof terrace would be appropriate in size and in-keeping with the design and scale of the existing building. The roof terrace would result in no material harm to the original building, the street scene or the overall character and appearance of the Hampstead conservation area. In this connection, the proposal would comply with core strategy policies CS5 and CS14, local development framework policies DP24 and DP25, Camden Planning Guidance document CPG1 Design, and the relevant paragraphs of the National Planning Policy Framework. The proposal meets the statutory test of s72 of the Act. In this connection, permission should be granted.