



Appeal Decision

Site visit made on 5 April 2016

by **H Cassini DipTP MRTPI**

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

Decision date: 19 May 2016

Appeal Ref: APP/X5210/W/15/3139042

51 Doltan House, Werrington Street, Camden, London NW1 1QN

- 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 Mr Meir Segal of Werrington Development Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2015/3074/P, dated 29 May 2015, was refused by notice dated 16 October 2015.
 - The development proposed is the creation of 2No. 2-bed maisonette units on ground floor and basement levels.
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Decision

1. The appeal is allowed. Planning permission is granted for the creation of 2No. 2-bed maisonette units on ground floor and basement levels at 51 Doltan House, Werrington Street, Camden, London NW1 1QN in accordance with the terms of the application, Ref 2015/3074/P, dated 29 May 2015, subject to the following 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 and documents: Site Location Plan, Existing Building Elevation – Existing Section & Elevations 1504.1.EX.E01, Existing Building Plans – Existing Plans 1504.1.EX.P00, Planning. Elevations – Proposed Section & Elevations 1504.4.PA.E01 Rev A, Planning. Plans – Proposed Plans 1504.4.PA.P01 Rev B, Design and Access Statement (29 May 2015), Basement Impact Assessment – Screening and Scoping Report 150234/TA (19 May 2015).
 - 3) Notwithstanding the works shown on the approved plans, no other external works, other than for repair and maintenance, shall be undertaken without the prior written approval of the local planning authority. Any such works shall be undertaken in accordance with the approved details.
 - 4) The dwellings hereby permitted shall not be occupied until secure, covered bicycle parking arrangements for bicycle spaces have been submitted to and approved in writing by the local planning authority. The approved arrangements shall be kept available for their intended purposes thereafter.

- 5) Prior to commencement of development, a Construction Management Plan dealing with the hours of construction shall be submitted to, and approved by, the local planning authority in writing. Development shall be carried out in accordance with the approved plan.

Procedural Matters

2. A unilateral undertaking made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted with the appeal (hereby referred to as the Unilateral Undertaking). The Council has chosen not to comment on this Unilateral Undertaking. I shall return to this matter below.
3. My attention has been drawn to the possibility of enforcement action with particular reference to the rendering of the facades of the building. As the proposal before me does not relate to the rendering of any elevation, I have not considered these works in determining the appeal.
4. An application for costs was made by Mr Meir Segal against the Council of the London Borough of Camden. This application is the subject of a separate Decision.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the host building, having regard to whether or not the building is a non-designated heritage asset.

Reasons

6. The Council considers the building to be a 'non-designated heritage asset' as defined by the National Planning Policy Framework (the Framework). That, it states, is due to its ornate, well detailed and proportioned façade which is in keeping with the elaborate pub facades of the Victorian era.
7. Policy DP25 of the Camden Development Policies 2010-2025 (CDP) includes provision for protecting non-designated heritage assets. The building is currently not identified on the Council's list of buildings of local, architectural and historic interest. However, the building has been recognised as a non-designated heritage asset in a previous planning refusal (Council ref: 2012/1713/P). The Council has confirmed that the current list is non-exhaustive and that the building will be added to future versions of the list. From my observations during my site visit and from written evidence, I concur with the Council's identification of the building as a non-designated heritage asset. As a result of the ornate, well detailed and proportioned façade the building continues to hold some significance in terms of its architectural quality.
8. As I saw during my site visit, some neighbouring properties have light wells. Whilst such alterations can detract from the qualities of the environment, the proposed light wells would be set back from the public footway and by their very nature would be set mostly below ground.
9. There would be views of the railings and upper parts of the basement facades behind the light well. However, the conversion of the subterranean space would be largely concealed from the wider street scene, with views of the facades only being evident from a short range. As such, it is not considered that the light wells would dominate the frontage of the building.

10. The introduction of landscaping to the front garden area and inside the metal railings would not only offer further screening of the light wells but would also be similar to landscaping seen at adjacent blocks of flats. Such landscaping would also replicate floral decorations often viewed outside traditional public houses.
11. The proposal would leave much of the fabric of the building unchanged, as access to each of the two units would be via an existing door opening and any elements of the building requiring repairs or replacement would be done so reflecting the general appearance and proportions. The proposal also involves the increase in height of the existing railings by approximately 10cm. However, this increase is considered minimal and the railings would still be of an acceptable height and would not dominate views of the building.
12. I accept that the original use of the building as a public house would not have necessitated the need for light wells. However, the installation of the light wells would not diminish the significance of the building. As such, I find no conflict with Policy DP27 of the CDP.
13. I therefore consider that the subtle changes that are proposed to the building would maintain its original form. In this context, it would be possible for future generations to see how the building has evolved over time in order to adapt to changing needs from its use as a public house to residential dwellings. In doing so, both the architectural form of the building and its contribution to the wider urban landscape character would not be adversely affected by the proposal.
14. The Framework states at paragraph 135 that the effect on the significance of non-designated heritage assets should be taken into account in determining an application, and that a balanced judgement will be required having regard to the scale of any harm and the significance of the asset. For the above reasons, I have identified that no harm would occur in terms of the significance of the non-designated heritage asset. The proposal would also increase both the choice and supply of housing, which the Council has confirmed as being of a high priority within the Borough.
15. The visual impact of the development in its context inevitably involves a measure of subjective judgement. Nonetheless, I find that the visual interest, character of the building and the significance of the non-designated heritage asset would not be adversely affected. Accordingly, I am therefore of the view that the balance of the arguments put to me are in favour of the proposed development meeting the design objectives of Policies DP24, DP27 and DP30 of the CDP and Policy CS14 of the Camden Core Strategy 2010-2025 (CS), the drainage and flood risk protection objectives of Policy DP27 of the CDP and the heritage conservation objectives of Policy DP25 of the CDP.

Other Matters

Planning obligations

16. The appellant has submitted a signed Unilateral Undertaking, despite contesting its necessity. Whilst the absence of such an agreement was not referenced in the reasons for refusal, I am obliged to consider the matter in the context of the Framework and the Community Infrastructure Levy Regulations 2010 (as amended) (CIL).

17. The Council has requested financial contributions in relation to highways, the submission of a Construction Management Plan and Sustainability Plan and that the development is 'car free' insofar as new residents will not be granted a residents parking permit. I shall deal with each of these in turn below.
18. The sum requested by the Council in relation to highways is requested to repair any construction damage to the transport infrastructure or landscaping and to reinstate affected transport network links and road and footway surfaces following development. Appendix C of the Council's statement which provides a specification by the Highway Engineer for the figure of £13,930.94 is noted. However, the majority of the building works are not on the highway and the Council has given no clear indication as to the level of damage considered likely to occur to the highway. Nor has any evidence been supplied to justify the sum of money sought. Moreover, the appellant has commented on the lack of evidence with reference to whether more than five contributions have been achieved in terms of highways contributions and CIL regulation 123(3).
19. On the basis of the evidence before me this highways obligation is unnecessary. As such, it does not satisfy the tests set out in the Framework and regulation 122 of the CIL Regulations.
20. In terms of the Construction Management Plan, paragraph 26.10 of the CPD states that such plans are not mandatory. As the storage of construction material and management of vehicles are controlled by alternative legislation, such as the Highways Act 1980, parallel controls to manage these areas already exist. However, given the proximity of neighbouring dwellings a form of control regarding construction hours is deemed necessary. Paragraph 203 of the National Planning Policy Framework states that 'planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition' and the Planning Practice Guidance also reiterates this stance. Accordingly, this matter could be addressed by way of an appropriately worded planning condition as detailed above. I therefore do not consider that this obligation would be necessary and as such, it does not meet the tests set out in the Framework and regulation 122 of the CIL Regulations.
21. With regard to the obligation requiring the proposal to be a car free development, the proposal is located within a Controlled Parking Zone and has a Public Transport Accessibility Level of 6a. Notwithstanding this, the Council has related the need for the obligation to an existing issue of car parking stress in the locality. The Council has not however provided substantive evidence to support this assertion. Accordingly, I do not find the obligation necessary to make the proposal acceptable in development terms and therefore it does not meet the tests set out in the Framework and regulation 122 of the CIL Regulations.
22. The Council's approach to climate change and details of sustainability standards are contained within Policy CS13 of the CS and Policy DP22 of the CDP. Reference has also been made by the Council to relevant paragraphs within the Framework stating the role of the planning system in reducing greenhouse gas emissions and supporting the delivery of renewable and low carbon energy project. However, the Council has not stipulated, in terms of sustainable development, what would make the proposal acceptable. Consequently, the obligation is not necessary to make the development acceptable in planning

terms and fails to satisfy the tests set out in the Framework and regulation 122 of the CIL Regulations.

23. For the reasons stated above, I have not afforded the Unilateral Undertaking any weight and therefore it has not been a reason for granting planning permission.
24. My attention has been drawn to the possibility of enforcement action with particular reference to the rendering of the facades of the building. As the proposal before me does not relate to the rendering of any elevation, and as I do not have any detail before me regarding this matter, I am unable to attach any weight to this matter. As such, this has not been determinative to the outcome of this appeal.

Conditions

25. I have considered the conditions suggested by the Council against the tests of the Framework and advice provided by the Government's Planning Practice Guidance. I find the majority to be reasonable and necessary in the circumstances of this case, although I have amended the wording of some.
26. In addition to the standard commencement condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans in order to provide certainty. A condition relating to materials is appropriate in the interests of safeguarding the character and appearance of the building and area. Finally, a condition relating to bicycle storage is necessary to encourage more sustainable forms of transport and a condition relating to the control of hours of construction is also necessary in the interests of residential amenity.
27. I am not satisfied that a condition relating to the roof terrace is necessary as the construction of such did not form part of application.

Conclusion

28. I therefore conclude that, subject to appropriate conditions, the appeal should be allowed.

Helen Cassini

INSPECTOR