



**PLANNING SERVICES**

**TOWN & COUNTRY PLANNING ACT 1990 (as amended)**

**HEARING**

**STATEMENT OF CASE**

---

**APPEAL SITE** 34a-36 Kilburn High Road, London, NW6 5UA

**APPELLANT** Helenium Holdings Ltd for Lotta Property Ltd

---

**SUBJECT OF APPEAL**

- 1) Appeal against refusal of planning permission on 26 August 2014 for the erection of an additional storey to provide 5x additional residential units.
- 

**COUNCIL REFERENCE:** 2014/2786/P

**PLANNING INSPECTORATE REFERENCES:** APP/X5210/W/14/3001424

**Summary**

The site comprises a 5 storey contemporary building at the corner of Kilburn High Road and Springfield Lane. The building is currently in mixed use with retail and gym at ground floor level, a hotel on the first, second and third floor levels and residential flats on the fourth floor level. Whilst the site is not in a conservation area there are many surviving Victorian buildings, three of which were noted by the previous inspector including the Red Lion Pub, The Old Bell Pub and the terrace of Victorian building across the road.

The proposed sixth floor extension is unacceptable in design terms. In dismissing an appeal for a six storey building, (APP/X5210/A/04/1141190) on 15/10/2004, the inspector's observations are relevant to the current appeal proposal. Whilst the proposed new storey at sixth floor level has been set back by 1.5 metres in attempt to overcome the previous inspector's concerns, it's siting, scale and bulk would still add unacceptable bulk and

massing to the building. Therefore, the inspector's observations remain: that the proposed building with a sixth floor is over large in comparison with the adjacent Red Lion public house and , the Bell public house (2/3 storey high) and the Victorian terrace opposite.

## **1.0 SITE AND SURROUNDINGS**

1.1 The appeal building consists of a five storey contemporary building at the corner of Kilburn High Road and Springfield Lane. The building is in mixed use with retail and gym at ground floor level, a hotel on the first, second and third floor levels and residential flats on the fourth floor level. The building is contemporary in design, featuring blockwork set within an exposed steel girder frame. This steel frame extends above the shoulder height of the building, creating an exposed 'railing' at roof level, which is prominent against the skyline.

1.2 Although the site is not in a conservation area, the location is attractive as there are many surviving Victorian buildings including the Red Lion Pub 34 Kilburn High Road, The Old Bell Pub 38 Kilburn High Road and the terrace of Victorian building across the road.

1.3 Kilburn High Road lies to the west of the site and Springfield Lane lies to the north and east of the site. To the north of the site (across Springfield Lane), building heights drop significantly to The Bell public house which consist of part 2/part 3 storeys.

1.4 The adjoining building to the south at 32 Kilburn High Road is the Red Lion public house building which is a traditional four storey building. The building to the south again in this block, at 24-32 Kilburn High Road consists of 6 storeys, the top storey being set back.

1.5 The buildings adjoining the site to the rear (east), on Springfield Lane (numbers 6 – 12), is a Georgian/early Victorian terrace consisting of 3 storeys and is in residential use. 14-18 Springfield lies to the south-east of this terrace and is 1960s/70s block consisting of four storeys in residential use.

## **2.0 RELEVANT PLANNING HISTORY**

2.1 On 20 December 2006 planning permission was granted for the retention of a new 5 storey plus basement building, comprising a basement Class D2 health club/snooker hall, ground floor Class A1 retail unit, 1st -3rd floors aparthotel (Class C1) comprising 38 suites, and 4th floor residential units (Class C3) comprising 11x 1 bed and 1x 2 bed self-contained flats, as a variation to planning permission granted on 12 April 2005 (PWX0302236/P) for erection of a new 5-storey plus basement building comprising a basement Class D2 health club/snooker hall, ground floor Class A1 retail unit, and 1st to 4th floors Sui Generis hostel for homeless people (in the form of 40 self-contained units with communal facilities)

2.2 On 03 February 2004, planning permission was refused for the 'Erection of a new 6 storey plus basement building, comprising a basement Class D2 health club/snooker hall, ground floor Class A1 retail unit, 1st to 5th floors "Sui Generis" hostel for homeless people (in the form of 48 self-contained units with communal facilities)'. The reasons for refusal were;

- 1) The proposed development, as a result of the 6th storey roof extension, would be excessively bulky in terms of its height, scale and mass and would be detrimental to the appearance and setting of adjoining buildings, the general streetscene in Kilburn High Road and the surrounding townscape.
- 2) It is considered that, as a result of the proposed 6th storey roof extension, the proposed residential units on the 1st and 2nd floors facing the internal lightwell will receive inadequate daylight and outlook to the detriment of the amenities of future residents in these units.

2.3 An appeal to the Planning Inspectorate was dismissed on 15th October 2004. Although the Inspectorate noted the proposed building and the library building at the other corner of the terrace as taller "bookends", he considered the proposed building to appear over large in comparison with the adjacent Red Lion and The Bell public house (2/3 storey high) and to be unsympathetic in scale when compared to the terrace opposite. In terms of neighbouring amenity the Inspector considered that the proposal would not have a significant impact on the daylight amenities of the neighbouring properties but it would have an unacceptable intrusive and overbearing effect on the outlook from some sui generis hostel accommodation on the lower storeys (facing into the light well along its north east side).

### **3.0 PLANNING POLICY FRAMEWORK**

### **Local Development Framework**

- 3.1 The Council's Local Development Framework (LDF) was adopted on 8th November 2010. The LDF comprises Core Strategy and Development Policies documents. These documents have been through an Examination in Public, and the appointed Inspector found the documents to be sound. The relevant LDF policies as they relate to the reason for refusal of the applications are listed below:

#### Core Strategy

- CS5 (Managing the impact of growth and development);
- CS6 (Providing quality homes)
- CS11 (Promoting sustainable and efficient travel)
- CS13 (Tackling climate change through promoting higher environmental standards)
- CS14 Promoting high Quality Places and Conserving Our Heritage

#### Development Policies

- DP2 (Making full use of Camden's capacity for housing)
- DP5 (Homes of different sizes)
- DP6 (Lifetime homes and wheelchair homes)
- DP16 (The transport implications of development)
- DP17 (Walking, cycling and public transport)
- DP18 (Parking standards and limiting the availability of car parking)
- DP19 (Managing the impact of parking)
- DP22 (Promoting sustainable design and construction)
- DP23 (Water)
- DP24 (Securing high quality design);
- DP26 (Managing the impact of development on occupiers and neighbours)

#### Supplementary Planning Guidance (SPG)

- 3.2 The following Camden Planning Guidance (CPG) is relevant. CPG1 Design, CPG6 Amenity (as amended 2011) and CPG8 Planning Obligations. The Supplementary Planning Documents were adopted following extensive public consultation.

#### NPPF

- 3.3 The National Planning Policy Framework (NPPF) 2012 is also relevant to the Council's decision and to this appeal. The policies and guidance contained within Camden's LDF 2010 are up to date and in accordance with paragraphs 214 – 216 (Annex 1) of the NPPF and should therefore be given substantial weight in the

decision of this appeal. The National Planning Policy Framework was adopted in April 2012 and states that development should be refused if the proposed development conflicts with the local plan unless other material considerations indicate otherwise. There are no material differences between the Council's policies and the NPPF in relation to this appeal.

#### **4.0 THE COUNCIL'S SUBMISSIONS**

- 4.1 Planning permission for the erection of an additional storey to provide 5 x additional residential units was refused on 26 September 2014.
- 4.2 The reason for refusal of planning permission (ref: 2014/2786/P) was 'the proposed development, as a result of the 6th storey roof extension, would be excessively bulky in terms of its height, scale and mass and would be detrimental to the appearance and setting of adjoining buildings, the general street scene in Kilburn High Road and the surrounding townscape contrary to policy.'

#### **5.0 The appellants grounds of appeal summarised**

- 5.1 The Council summarises the appellants' grounds of appeal and subsequently addresses these below.

##### **Design - Bulk, Height and Massing**

- 5.2 The appellants state that the existing building is not listed nor does it lie within a Conservation Area. It is contemporary in design and features an exposed steel frame which extends upwards beyond the roof of the building to the form of a modern parapet. The appellant is of the view that the proposed set back of the additional storey will be a fitting termination of the building.
- 5.3 The appellants contend that as a steel frame roof railing currently exists which provides additional perceived height to the building but also means that the proposed glass balustrade will not be overly noticeable from street views compared to what already exists.
- 5.4 The appellants contend that the surroundings of the site have changed since the previous application was dismissed at appeal. Two separate planning permissions

have been granted for additional storeys that have been built at no 24-32 Kilburn High Road and at 12-22 Kilburn High Road. The appellant argues that whilst for the most part continuous parapet line and shoulder height of the terrace is retained, additional bulk and massing at roof level can be accommodated above the defined parapet line. The appellants contest that it is a corner site which bookends a terrace and that it is visually distinct and separate from the buildings to the north by virtue of Springfield Lane separating the two composition of buildings.

5.5 The appellants contest that the height difference between the host building and the buildings to the north is not an accurate assessment of the site context. The appellant perceives 34-36a Kilburn High Road to be an end of terrace property, bookending the terrace with an architectural flourish as opposed to a building that attempts a step down to its neighbour thus considers a step down as unnecessary. The appellant argues that additional massing can be accommodated at shoulder height.

5.6 The appellant asserts that the proposal has been designed to appear lightweight and subservient which has been set back 1.5 metres and the materials used would be reflective to give the addition a 'light airy appearance' having regard to the dismissed appeal. Thus the appellant considers the proposal complies with Core Strategy Policy CS14 and the Development Plan Policy DP24.

## **6.0 The Council's Statement of Case**

6.1. Since the appeal was dismissed in 2004, the proposal has been modified in an attempt to address the issues raised by the inspector regarding the excessive bulk, scale and massing that would be engendered by the introduction of a large addition to the roof deck of this 5 storey building.

6.2. Kilburn High Road is a largely commercial character. There are many surviving Victorian buildings. The subject site is located within a relatively tight grain along the street that is loosened by being interspersed with frequent junctions.

6.3. The subject site, is at the end of a short block of two similarly wide buildings at Nos 24-32, 12 -22 and a large public house at No 34 that neighbours the subject building but is narrower in width than its neighbours. No 12-22 is a tall building that is approximately two storeys higher than No 34a-36 but whose height is somewhat

mitigated by the curved frontage. No 24-32 Kilburn High Road is a six storey building but it has no such mitigation to reduce the impact of a tall and wide building with a roof top addition. This building serves as a stark reminder of the impact that such a building has on the street scene and on the setting of the pub next door. The pub is an unusual turn of the century handsome red brick building that is four storeys high with a ground and first floor that are almost as high as the appeal building's three lowest storeys. The height of the pub is offset with banded horizontal emphasis and the use of Italianate stucco dressings. A tall pediment set between chimney stacks provides an odd but charming adjunct to the pub.

On the north side of the subject building is Springfield Road. The next block contains the Old Bell at 34 Kilburn High Road is a two storey building of yellow stock brick with red brick corbelling, string coursing and dentilling at the eaves. It is of Victorian construction and has a three storey hexagonal corner tower nearest to the subject building. Although somewhat neglected, it is a positive contributor on the street.

- 6.4. Facing the subject building is a terrace of nine attractive Italianate buildings of four storeys with shops at ground floor and residential upper floors. This Victorian parade is characterised by widely striated stucco decorated banding, painted bright white and ornate dressings to the arched fenestration. The parade is of key importance to the retention of the Victorian character of the street and area. The impact that these three buildings have on this part of the street is highly positive and offsets the blandness of the three contemporary buildings including the subject building.
- 6.5. When the appeal site is viewed from the south in a perspectival view another highly attractive Edwardian building with a corner tower (housing a bank at No 42) of orange-red brick and cream stucco with a green age-patinated copper-domed roof provides a very important focus along the sweep of the street towards vanishing point. The subject building makes a neutral contribution to this street view by its flat but not entirely unattractive red clad façade that is set at a slight angle to the street. It comprises five storey building of steel frame and concrete construction with red ceramic cladding laid horizontally along the principal facades. The safety rail around the perimeter of the roof is highly detrimental to the view of the building particularly seen from the north and gives a glimpse of the detriment that would be incurred by any additional height on an already tall building. The view from this northern end is a much harsher sight of the subject building than that from the south since the north corner of the top of the building looks higher than it really is because of the smaller

pub (the Old Bell) located beside it just across the narrow junction of Springfield lane. Any further massing to the top of No 34a- 36 would be highly detrimental to the views from the north and west and would have a negative impact on the Red Lion pub -, just as No 24-32 has already done - and furthermore would impose even more massing and bulk to the view of the site from the north as set against the Old Bell pub. Furthermore the view from the Overground station also at the north of the site reveals just how deep the subject building is. Any extra storey would be seen running along the entire depth of the roof and there would be no breaking up the view by means of interim buildings.

- 6.6. It has been demonstrated already that the addition to the building at No 24-32 has compromised the views and the setting of the tall red brick pub at number 34 Kilburn High Road (Red Lion). A sixth storey on No 34a - 36 would exacerbate this negative characteristic and would also emphasise the narrower width of the Red Lion pub by, visually speaking, squeezing the pub between two high and wide buildings. The impact of an additional storey from the south of the site would also be highly detrimental to this view of the street since the subject building in its extant form and massing, as has been demonstrated, does not obtrude excessively onto the street scene or have a highly negative impact on the Red Lion pub.
- 6.7. In addition to inappropriate massing and bulk even a further setback as proposed by the revised rooftop scheme would be architecturally and aesthetically detrimental to the views and composition of the street scene. The proposed materials would not serve to mitigate any bulk but would rather emphasise the extra storey by drawing attention by means of reflectivity and light. In addition the proposed materials bear no relation to the materials used for the elevations of the subject building and are simply added as an afterthought.

## **7 Section 106 Reasons for Refusal**

- 7.1 The Council considers that reasons for refusal 2-6 can be addressed by an appropriate section 106 planning obligation. The Council is working with the appellant to prepare a legal agreement which addresses the reasons for refusal nos. 2-6 in respect of the planning appeal. However, in the event that some matters cannot be agreed in this way then the Council provide evidence to demonstrate that the requirements are justified against relevant planning policy and meet the tests laid out in the Community Infrastructure Levy (CIL) Regulations 2010 in particular



Regulation 122(2) which require that for a planning obligation to constitute a reason for granting planning permission it must be (a) necessary to make the development acceptable in planning terms, (b) directly related to the development, and (c) fairly and reasonably related in scale and kind to the development, and the National Planning Policy Framework (particularly paragraphs 203-206).

### Reason 2- Car Free

7.2 *The proposed development, in the absence of a legal agreement securing car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP18 (Parking standards and the availability of car parking) and DP19 (Managing the impact of parking) of the London Borough of Camden Local Development Framework Development Policies.*

7.2.1 The reasons for this are to facilitate sustainability and to help promote alternative, more sustainable methods of transport. Considering the site lies within a controlled parking zone has a Public Transport Accessibility Level of (PTAL) of 6a (excellent), the development should be secured as car free through a s106 legal agreement if the appeal were allowed.

7.2.2 This is in accordance with key principle 4 of the National Planning Policy Framework, Promoting sustainable transport, and policies CS11 (Promoting sustainable and sufficient travel); CS19 (Delivering and monitoring the Core Strategy); DP18 (Parking standards and availability of car parking); and DP19 (Managing the impact of parking) of the LDF.

7.2.3 A planning obligation is considered the most appropriate mechanism for securing the development as car free as it relates to controls that are outside of the development site and the ongoing requirement of the development to remain car free. The level of control is considered to go beyond the remit of a planning condition. Furthermore, the Section 106 legal agreement is the mechanism used by the Council to signal that a property is to be designated as "Car Free". The Council's control over parking does not allow it to unilaterally withhold on-street parking permits from residents simply because they occupy a particular property. The Council's control is derived from

Traffic Management Orders (“TMO”), which have been made pursuant to the Road Traffic Regulation Act 1984. There is a formal legal process of advertisement and consultation involved in amending a TMO. The Council could not practically pursue an amendment to the TMO in connection with every application where the additional dwelling (or dwellings) ought properly to be designated as car free. Even if it could, such a mechanism would lead to a series of disputes between the Council and incoming residents who had agreed to occupy the property with no knowledge of its car-free status. Instead, the TMO is worded so that the power to refuse to issue parking permits is linked to whether a property has entered into a “Car Free” Section 106 Obligation. The TMO sets out that it is the Council’s policy not to give parking permits to people who live in premises designated as “Car Free”, and the Section 106 legal agreement is the mechanism used by the Council to signal that a property is to be designated as “Car Free”.

7.2.4 Further, use of a Section 106 Agreement, which is registered as a land charge, is a much clearer mechanism than the use of a condition to signal to potential future purchasers of the property that it is designated as car free and that they will not be able to obtain a parking permit. This part of the legal agreement stays on the local search in perpetuity so that any future purchaser of the property is informed that residents are not eligible for parking permits.

7.2.5 CIL Compliance: The Car Free requirement complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to necessarily mitigate against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. This supports key principle 4 of the National Planning Policy Framework: Promoting sustainable transport. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to the parking provision for the site and impact on the surrounding highway network.

### Reason 3- Construction Management Plan

7.3.1 *The proposed development, in the absence of a legal agreement securing a construction management plan, would be likely to give rise to conflicts with other road users, and be detrimental to the amenities of the area generally, contrary to policies CS5 (Managing the impact of growth and development), CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core*

*Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP20 (Movement of goods and materials), DP21 (Development connecting to highway network) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.*

- 7.3.2 The construction of an additional storey is likely to have a significant impact and the management of the construction will need to be planned in order to minimise any impact on Kilburn High Road and neighbours. The impact of the construction can be managed through a Construction Management Plan (CMP) in accordance with policies CS5, CS11, CS19, DP20, and DP26 specifically paragraph 26.10, and CPG7 – Transport.
- 7.3.4 A planning obligation is considered to be the most appropriate mechanism for securing compliance with a CMP in this case simply because a considerable extent of the activity during construction could cause conflict with other road users or be detrimental to the amenity of the area and will necessarily take place outside the curtilage of the planning unit of the appeal site. Potential impacts for the proposed demolition/construction works which should be controlled by a CMP include traffic generation from removal and delivery of materials to the site. This could result in traffic disruption and dangerous situations for pedestrians and road users.

#### Reason 4- Education Contribution

- 7.4.1 *The proposed development, in the absence of a legal agreement for securing contributions to educational provision, would be likely to contribute unacceptably to pressure and demand on the Borough's existing educational facilities, contrary to policies CS10 (Supporting community facilities) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP15 (Community and leisure uses) of the London Borough of Camden Local Development Framework Development Policies.*
- 7.4.2 Paragraph 72 of the NPPF states that LPAs should ensure that a sufficient choice of school places is available to meet the needs of existing and new communities. The London Plan states LPAs should ensure the adequate social infrastructure provision is made to support new developments.

- 7.4.3 Policy CS19, and Camden Planning Guidance 8 (Planning Obligations) sets out at paragraph 4.5 that “All residential development (Class “C3” of the Town and Country Planning Use Classes) including new build, change of use and conversion where the scheme results in a net increase of five or more dwelling units will normally be expected to provide a contribution towards education provision”.
- 7.4.4 The occupiers of the new residential units are likely to place an increased burden on educational facilities in the area and a contribution to education infrastructure is necessary to mitigate against the extra demand and increased pressure on local schools created by the occupation of the development.
- 7.4.5 The proposed scheme, comprising 4 x 2-bed dwellings and 1 x 1-bed dwellings would attract a requirement for £8,852 [4 (2-beds) x £2213 = £8,852] as a contribution towards provision of education facilities in the borough, for which there is a pressing need in the locality.
- 7.4.6 Such a contribution, calculated in accordance with the formula in figure 1 of the Camden Planning Guidance would be necessary in this case due to the scale and mix of housing proposed. Such a contribution has to be secured by S106 obligation. The Planning Practice Guidance advises that financial contributions cannot be secured by condition (Appendix 8, PPG, Using Planning Conditions, paragraph 5).
- 7.4.7 CIL compliance: It is considered that the education contribution meets the requirements of the CIL Regulations. It is necessary to make the development acceptable in planning terms as identified by the Development Plan to mitigate against the extra demand and increased pressure on local schools created by the occupation of the development. The contribution has been calculated with reference to Guidance but taking into account the specific characteristics of the development as outlined above and accordingly the contribution is considered to relate fairly and reasonably in scale and kind to the development. This supports key principle 8 of the National Planning Policy Framework: Promoting healthy communities.

#### Reason 5- Sustainability Plan

- 7.5.1 *The proposed development, in the absence of a legal agreement securing adequate sustainability measures including post-completion certification confirming the*

*achieved levels, would fail to make the fullest contribution to the mitigation of and adaptation to climate change, to minimise carbon dioxide emissions and contribute to water conservation and sustainable urban drainage contrary to contrary to policies CS13 (Tackling climate change through promoting higher environmental standards) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP22 (Promoting sustainable design and construction) and DP23 (Water) of the London Borough of Camden Local Development Framework Development Policies.*

- 7.5.2 Paragraph 93 of the NPPF states that planning plays a key role in reducing greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change and supporting the delivery of renewable and low carbon energy. Paragraphs 96 and 97 require LPA to expect to meet local requirements to link up to decentralised energy supplies and encourages use and supply of low carbon technologies.
- 7.5.3 Policy CS13 sets out the Council's overall approach to tackling climate change, which includes tackling higher environmental standards in design and construction. Policy DP22 provides details of the sustainability standards. The LDF is in accordance with Chapter 5 of the London Plan – London's response to climate change.
- 7.5.4 Energy Efficiency Plan - This requires developments to make the fullest contribution to tackling climate change in the following hierarchy: firstly by minimising carbon dioxide emissions, adopting sustainable design and construction measures (be lean), secondly prioritising decentralised energy (be clean) and thirdly incorporating renewable technologies (be green). The Energy Strategy submitted broadly follows the energy hierarchy.
- 7.5.5 In accordance with the London Plan and CPG3- Sustainability development should make a 40% improvement of the current 2010 Building Regulations with regard to carbon dioxide reduction targets. A full assessment of the proposed Energy Efficiency Plan is contained within the case officer's report.
- 7.5.6 To summarise, combined be lean, be clean and be green measures would reduce the CO2 emissions per annum, or 32% beyond what would be expected for a 2010 Building Regulations compliant scheme. There is a shortfall between what would be

achieved and the 40% target set out in the London Plan. The applicant has not demonstrated that they have explored options to bring the CO2 reduction up to 40% beyond what is expected in the 2010 Building Regulations.

- 7.5.7 If this appeal were to be allowed it should be subject to a S106 agreement to secure that reasonable endeavours are made to bring the CO2 reduction up to 40% beyond what is expected in the 2010 Building Regulations.
- 7.5.8 An Energy Efficiency Plan is required in order to make the proposal acceptable in sustainability terms. It is necessary to secure this is undertaken, installed and maintained and the most appropriate way of doing so is by a S106 agreement.
- 7.5.9 If the appeal were to be allowed the Council would require a post construction review to be carried out by an impartial assessment body. The Section 106 agreement would also secure the ongoing maintenance and retention of the sustainability measures. This would involve ongoing maintenance of a range of measures which may be updated or varied as agreed with the Council from time to time. This would not only be the responsibility of the developer, but that of subsequent owners and occupiers. The Council consider a planning obligation would be the most appropriate tool to ensure on-going compliance with the Code for Sustainable Homes assessments. In addition, in order to ensure compliance with the measures identified in the Code for Sustainable Homes assessments, the Council's standard procedure is to not permit occupation of the development until a satisfactory post-construction review has been provided and any issues identified in that review have been satisfactorily addressed. Given the complexity of the requirement a S106 rather than a condition is considered the most appropriate measure to secure this.
- 7.5.10 CIL compliance: This obligation complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to facilitate sustainable development. This supports the National Planning Policy Framework key principle to achieve sustainable development. It is also directly related to the development and fairly and reasonably related in scale and kind as it ensures that the development itself is sustainable.

Reason 6 – Public Open Space Contribution

- 7.6.1 *The proposed development, in the absence of a legal agreement for securing contributions for public open space provision, would be likely to contribute unacceptably to pressure and demand on the Borough's existing open space facilities, contrary to policies CS15 (Protecting and improving open spaces & encouraging biodiversity) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP31 (Provision of and improvements to public open space) of the London Borough of Camden Local Development Framework Development Policies.*
- 7.6.2 The NPPF seeks to secure the provision of adequate open space to meet local needs for open space. Paragraph 58 states that provision of green space and public open space should be incorporated in developments. Paragraph 73 states that high quality open spaces and opportunities for sports and recreation can make an important contribution to the health and well-being of communities.
- 7.6.3 The LDF Policies CS15, CPG 6 and DP31 require development to mitigate against increase demand for and use of public open spaces. The policies requires provision of 9 sqm of open space per person for residential developments providing five or more additional dwellings and this will initially be expected to be provided on site. Where it is not possible to provide this open space provision on site the preferred option would be to provide suitable open space off-site. If either of the above are not practical a financial contribution to open space will be acceptable.
- 7.6.4 The current proposed unit mix would generate an open space requirement of 45sqm. As a payment in lieu (including all capital costs, maintenance and design/admin) the Council would expect £6,033 as financial contributions for the absence of the provision of open space for the 5 residential units. The contribution could be used to improve nearby public open space.
- 7.6.5 The financial contribution is based on the capital cost of providing new open space, the cost of maintenance for the first five years and the cost for the open space team to administer the contribution and design schemes. CPG6 states that all types of residential development are considered to generate requirements per occupier of 9m<sup>2</sup> (refer paragraph 11.5). The amount of the contribution has been calculated in accordance with the formula set out in the guidance.

- 7.6.6 Such a contribution has to be secured by S106 obligation. This contribution would be in accordance with chapters 7 and 8 of the National Planning Policy Framework: Promoting healthy communities. The National Planning Practice Guidance advises that financial contributions cannot be secured by condition (Appendix 8, PPG, Using Planning Conditions, paragraph 5).
- 7.6.7 CIL Compliance: The contribution is considered to be CIL compliant is necessary in planning terms as identified in the development plan to mitigate against the increased pressure on open spaces as a direct result of the extra demand created by the occupation of the development. The contribution has been calculated taking into account the particular characteristics of the development, it is directly related to the development and is fairly and reasonably related in scale and kind to the development. This supports key principle 8 of the National Planning Policy Framework: Promoting healthy communities

## **8 Conclusion**

- 8.1 The proposal additional storey to the existing five storey building is considered, even with a further setback away from the front of the building as a revision of the first scheme, to be detrimental to the views of the street scene and to the setting of the Red Lion, the Old Bell and to the terrace of Victorian building across the road due to inappropriate massing and bulk. The visual, aesthetic and architectural impact that an additional storey would have on the setting of the neighbouring as well as on the view from and of the street, particularly from the north, would be highly compromising.
- 8.2 DP24 stresses the need for high quality design whilst CS14 stresses the need for the conservation of our heritage. It is not considered that the proposed additional storey would conform to these requirements.\_The proposal is therefore contrary to the NPPF and the aims of policies CS14 of the core strategy and DP24 of the development policies as well as guidance in CPG1.
- 8.3 With regard to planning balance, the harm of the bulk and massing is considered to outweigh the benefit of providing additional five units of housing.



As such the Council respectfully request that the Inspector dismiss this appeal.

## **9 APPROPRIATE CONDITIONS**

- 9.1 The works hereby permitted shall be begun not later than the end of three years from the date of this consent.

Reason: In order to comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 9.2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

Contact: Zenab Haji-Ismail 020 7974 3270

February 2015