



## GROUND OF APPEAL

### FULL PLANNING APPEAL (WRITTEN REPRESENTATIONS)

**MR. DUNCAN GILBERT**

**FULL PLANNING APPLICATION NUMBER: 2014/7919/P**

**58 MILL LANE, LONDON, NW6 1NJ**

The Grounds of Appeal have been prepared by James Lloyd Associates Limited in conjunction with Kronen Limited (Transport) who have also prepared a supporting Statement of Case (hereafter referred to as the 'Agent'), submitted on behalf of Mr. Duncan Gilbert (hereafter referred to as the 'Appellant'), with regard to 58 Mill Lane, London, NW6 1NJ (hereafter referred to as the 'Appeal Site').

### 1. DESCRIPTION OF APPEAL PROPOSAL

From the outset, it is important to note that there is no dispute that the Appeal Site is suitable for residential development. However, there is a disagreement with the interpretation of development policy. Councillors and the Council's Transport Department have agreed this Appeal can be approved on the proviso that a car free obligation is secured, which the Appellant does not want to enter into.

The Appellant appeals against the London Borough of Camden (hereafter referred to as the 'Council') for non-determination – Council minded to refuse full planning permission (2014/7919/P) at the Appeal Site for the: *"Change of use at basement level from retail (Class A1) to provide 1 residential (Class C3) unit (1 x 3 bed), enlargement of existing front lightwell, single storey rear extension at lower ground floor level and installation of rear rooflight at ground floor level and new double mansard to create additional bedroom to top floor flat.*

### 2. DESCRIPTION OF THE APPEAL SITE

The premises form part of a Victorian terrace on the southern side of Mill Lane between Ravenshaw Street to the west and Broomsleigh Street to the east. The three-storey (plus lower ground) mid-terraced property comprises a basement that adjoins a single-storey rear extension at lower ground floor level, used as a workshop; and a ground floor retail unit with two floors of residential use above.

#### Site Location Plan



The shop was formerly in use as a florist and has been vacant since 2004. The basement workshop was formerly used by a furniture restoration company and has been vacant since 2000.

The ground floor shop is accessed from Mill Lane with a separate access door providing access to the basement and residential units on the first and second floors. There is an emergency escape route, which has existed for approximately 30 years, from the workshop leading to Mill Lane via the external yard of Nos.60-62 Mill Lane. .

#### Appeal Site Photograph



The Appeal Site is not within a conservation area and the host and surrounding buildings are not listed. It is, however, located within a designated Mill Lane Neighbourhood Centre.

### **3. PLANNING HISTORY**

#### **No.58 Mill Lane (Appeal Site)**

- 2008/2364/P – planning permission granted subject to conditions on 03/10/2008 for change of use of the ground floor from retail (Class A1) to office (Class B1) to provide additional space for the existing B1 use at lower ground floor level, the installation of pavement lights within the forecourt, the erection of a new single storey rear extension at lower ground floor level (following the demolition of the existing rear extension), and alterations to the rear elevation at lower ground and ground floor level (Officer comment: this permission was not implemented and has since lapsed).
- 9100954 – planning permission granted subject to conditions on 30/01/1992 for change of use of retail unit to a fish & chip shop (Class A3) and take away including a new extract on the rear elevation as shown on drawing no ML/P/01 (Officer comment: this permission was not implemented and has since lapsed).
- 8702792 – planning permission refused on 03/10/2008 for the erection of a rear extension at second floor level as shown on drawing no. 237 SK.1. Subsequently allowed on appeal on 10/12/1987 (Officer comment: this permission has been implemented).

#### **No.56 Mill Lane**

- 2012/1082/P – Certificate of lawfulness granted on 18/04/2012 for use of basement, part ground, first and second floor as 7 x self-contained units (3 x 1 bedroom and 4 x studios).
- 2012/5210/P – planning permission granted subject to conditions on 24/12/2012 for the erection of a mansard roof as an extension to the second floor front flat no. 7 (Class C3).

## **No.60-62 Mill Lane**

- 2011/0296/P – planning permission granted subject to conditions on 13/05/2011 for change of use from non-residential institution (Class D1) to 5 x self-contained flats (Class C3) with retail unit (Class A1) at ground floor level and associated erection of roof extension, two-storey and single storey rear extensions (Officer comment: this permission has been implemented).

## **No.66 Mill Lane**

- 2012/4886/P – planning permission granted subject to conditions and S106 on 21/02/2013 for the erection of mansard roof extension and rear extensions at lower ground to first floor levels, creation of rear terraces at second and third floor level and installation of new front cellar lights at front lower ground floor level all in connection with change of use from retail (Class A1) at lower ground and part ground floor to 1 x 2 bedroom flat, 1 x 1 bedroom at first floor level and 1x 2 bedroom maisonette on second and third floor levels (Class C3) (Officer comment: this permission has been implemented).

## **No.68A Mill Lane**

- 2012/2134/P – planning permission granted subject to conditions on 14/06/2012 for erection of mansard roof extension and replacement of existing upvc windows with timber windows all in connection with existing maisonette (Class C3) (Officer comment: this permission has been implemented).

## **4. PLANNING POLICY FRAMEWORK**

### **National Planning Policy Framework 2012**

### **London Plan March 2015, consolidated with alterations since 2011**

### **LDF Core Strategy and Development Policies**

- |   |   |
|---|---|
| ▪ CS5 Managing the impact of growth and development   | ▪ DP16 The transport implications of development                      |
| ▪ CS6 Providing quality homes   | ▪ DP17 Walking, cycling and public transport                          |
| ▪ CS7 Promoting Camden's centres and shop   | ▪ DP18 Parking standards and limiting the availability of car parking |
| ▪ CS11 Promoting sustainable and efficient travel   | ▪ DP20 Movement of goods and materials                                |
| ▪ CS13 Tackling climate change and promoting higher environmental standards                                       | ▪ DP21 Development connecting to the highway network                  |
| ▪ CS14 Promoting high quality places and conserving our heritage  | ▪ DP22 Promoting sustainable design and construction                  |
| ▪ CS15 Protecting and improving our parks and open spaces & encouraging biodiversity                              | ▪ DP23 Water  |
| ▪ CS19 Developing and monitoring the Core Strategy  | ▪ DP24 Securing high quality design                                   |
| ▪ DP2 Making full use of Camden's capacity for housing  | ▪ DP25 Conserving Camden's heritage                                   |
| ▪ DP5 Homes of different sizes  | ▪ DP26 Managing the impact of development on occupiers and neighbours |
| ▪ DP6 Lifetime homes and wheelchair homes   | ▪ DP27 Basements and lightwells                                       |
| ▪ DP12 Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses | ▪ DP28 Noise and vibration  |

## **Camden Supplementary Planning Guidance:**

- CPG 1 Design (2015)
- CPG 2 Housing (2015)
- CPG3 Sustainability (2015)
- CPG5 Town Centres, Retail and Employment (2013)
- CPG6 Amenity (2011)
- CPG 7 Transport (2011)
- CPG8 Planning Obligations (2015)

## **5. FULL PLANNING APPLICATION**

A Full Planning Application was submitted by the Project Architect on 23 December 2014 and validated by the Council on 10 February 2015 (2014/7919/P)). In accordance with the Council's Validation Checklist, the application was accompanied by the following documents (in no particular order):

- Completed Application Forms including CIL Form (dated 23 December 2014) prepared by Studio 136 Architects Ltd
- Design and Access Statement prepared by prepared by Studio 136 Architects Limited
- Drawings / Plans prepared by Studio 136 Architects Limited:
- Site Location Plan
- ST\_14\_58MIL\_001 (Rev C) – Existing and Proposed Plans, Sections and Elevations (dated October 2014)
- ST\_14\_58MIL\_002 (Rev C) – Existing and Proposed Plans, Sections and Elevations (dated October 2014)
- ST\_14\_58MIL\_003 – Existing Sections (dated October 2014)

Planning permission is sought for:

- The change of use of the basement level from retail (Class A1) to residential (Class C3) use including the enlargement of the existing front lightwell; a single storey extension to the existing rear workshop at lower ground floor level; and the installation of a rear rooflight at ground floor level to provide a new 3 bedroom flat; and,
- New mansard roof extension to provide an additional bedroom for the existing 1-bedroom top floor flat

## **Summary of Consultation Response**

A Site Notice was displayed between 13/02/2015 to 06/03/2015 and letters were sent to 22 neighbouring properties on 12/02/2015, 13/02/2015 and 18/09/2015.

Eight objections have been received from residential properties in Mill Lane, Gondar Gardens, Lechmere Road, Ravenshaw Street and Finchley Road raising the following concerns:

- Loss of ground floor retail shop
- Visual intrusion
- Loss of light
- Structural damage to neighbouring properties
- Noise and disturbance
- Potential increase in litter

No objection to the proposal subject to a drainage strategy condition and informatives relating to any proposed building works falling within 3 metres of any pipes, a Groundwater permit and water pressure being attached to any permission granted.

## **CAAC/Local Groups Comments**

### **Fortune Green & West Hampstead Neighbourhood Development Forum**

Object on the grounds that the proposal would result in the loss of the ground floor retail unit causing considerable harm to the character and function of the Neighbourhood Centre contrary to Neighbourhood Plan Policy 13, Camden Core Strategy Policy CS7 (and draft Local Plan policies D3 and TC2).

### **Gondar & Agamemnon Residents Association**

Object to the change of use from retail to residential at ground floor level which will be detrimental to Mill Lane which is seen as a valuable neighbourhood retail street whose continuity and strength would suffer as a result.

## **Revisions**

The proposal originally sought permission to change the use of both the basement and ground floor levels from retail (Class A1) to residential use in order to provide 2 flats (1 x 2 bedroom and 1 x 3 bedroom flat). This included the erection of a two-storey rear extension at lower and ground floor levels.

Following concerns being raised by officers, local groups and neighbouring occupiers in relation to the loss of retail use and the impact on neighbouring amenity, the proposal has been amended to retain retail use at ground floor level and the height of the rear extension has been significantly reduced from two-storeys to single-storey.

The following additional information was submitted to the Council:

- Revised Completed Application Forms (dated 10 September 2015) prepared by Studio 136 Architects Limited
- Revised Drawings / Plans prepared by Studio 136 Architects Limited:
  - ST\_14\_58MIL\_001 (Rev F) – Existing and Proposed Plans, Sections and Elevations (dated October 2014)
  - ST\_14\_58MIL\_002 (Rev F) - Proposed Floor Plans (dated October 2014)
- Transport Statement (dated February 2016) prepared by Kronen Limited

The Council circulated:

- Officer Report - Members Briefing Pack (dated 5 December 2015)



## **6. ASSESSMENT OF PLANNING CONSIDERATIONS**

From the outset, it is important to note that there is no dispute that the Appeal Site is suitable for residential development. However, there is a disagreement with the interpretation of development policy. Councillors and the Council's Transport Department have agreed this Appeal can be approved on the proviso that a car free obligation is secured, which the Appellant does not want to enter into.

### **i. Transport, Access & Parking**

Please refer to the supporting Transport Statement of Case prepared by Kronen Limited.

#### **Transport, Access & Parking**

The Appeal Site is located on Mill Lane within the West Hampstead area with a Public Transport Accessibility Level (PTAL) of 4 (good). It is situated within walking distance of the underground and overground train stations of West Hampstead and also has local bus connections to additional underground lines. There are no existing or proposed parking spaces for No.58 Mill Lane. There are pay and display car parking spaces along the parade.

Following the submission of the planning application discussions between the Appellant and LB Camden's Planning Officer took place with regards to a 'car free agreement'.

A car free agreement would see the applicant agree to a Section 106 Agreement to remove the new development's occupants' eligibility for Controlled Parking Zone parking permits.

The Appellant is not willing to enter into a Section 106 Agreement to remove the occupants' eligibility for parking permits. Council Planning Officer's will not support the proposal without such an agreement.

The key transport issue for the appeal is whether the Appeal Site's location and the conditions on-streets surrounding the Appeal Site require the Appellant to enter in to a Section 106 Agreement for the proposal to be in accordance with the Development Plan and whether an Agreement is necessary to mitigate potential parking impacts.

As discussed in the analysis:

- The Appeal Site is in a Neighbourhood Centre rather than a more significant Town Centre
- The Appeal Site has good but not excellent public transport accessibility
- Streets surrounding the Appeal Site do not have high parking stress conditions
- The Local Development Plan policies do not "require" the Appeal to be car free by agreement
- Without a car free agreement the Appeal will not have a "severe" impact
- A car free agreement is not "necessary"

The proposals include relatively modest construction works and there is considered to be ample space within and around the site to contain the construction materials and site requirements (such as on the highway with the agreement of parking services and highways). It is therefore not considered necessary to secure a Construction Management Plan for the development.

## **ii. Other Material Considerations**

All other matters (listed below) are agreed with the Council:

- Land Use - Loss of retail floorspace / Proposed residential use
- Design and Townscape
- Provision and quality of residential floorspace
- Residential Amenity
- Transport and access

Nevertheless, as noted within the Officer's Report:

### **Land Use**

#### **Loss of retail floorspace**

The loss of the existing vacant retail shop and basement/workshop areas was previously accepted in the 2008 permission referred to above. This Appeal would, however, retain retail use (Class A1) at ground floor level with the basement floorspace only being lost to residential use. The proposal would not reduce the overall percentage (61.5%) of retail uses within the centre. Retail use would still dominate, and the proportion necessary to attract customers would be maintained. More than 50% of the total units within this parade would be retained for retail use and the development would not result in 3 or more consecutive units being in non-retail use in accordance with Policy CS7 of the LDF, CPG5 and Policy 13 of the FGWHNP.

It is therefore considered that the partial loss of retail A1 floorspace proposed would not adversely impact on the character, function, viability and vitality of the Neighbourhood Centre or on residents' amenity. The proposed residential use would co-exist within the centre without any undue harm and the bringing back into use of this currently vacant retail unit would enhance the vitality and viability of the centre.

#### **Proposed Residential Use**

The Appeal proposes a new three-bedroom residential unit at lower ground floor level. The principle of additional residential floorspace within the Borough is strongly supported by Policies CS6 and DP2, which identify housing as the priority land use for the Borough and highlight the need to maximise the supply of housing. Policy 1: Housing of the FGWHNP further supports the provision of new 3-bedroom homes, where appropriate and suitable for families.

Policy CS6 seeks to meet or exceed a target of 8,925 new homes across the Borough between 2010 and 2025, with Annual Monitoring Reports including a reliance on a number of small sites and windfall sites. Policy DP2 further expects the maximum appropriate contribution to supply of housing on sites that are underused or vacant, taking into account any other uses that are needed on the Appeal Site.

The Appeal Site is in a sustainable location, with a good/very good PTAL level and access to local services and amenities. The development proposes the re-use of an existing underutilised, part vacant brownfield site, making the best use of the Borough's limited land. This approach accords with the core principles of the NPPF, which encourages the re-use of previously developed land, and Policy CS1.

Policies CS1 and CS4 also support development which makes the best use of land in areas of more limited change which are outside of the growth areas. The key test set out in Policy CS4 is that development in these areas 'respects the character of its surroundings, conserves heritage and other important features and provides environmental improvements and other local benefits where appropriate'. An assessment of these issues is outlined in further detail below.

In light of the loss of the existing uses being justified and the priority given to the delivery of significant number of new dwellings (particularly on underused brownfield sites), the principle of the redevelopment of the Appeal Site for housing is supported and would fully comply with Council policy.

## **Design & Townscape**

The scale and design of the proposed extensions and alterations would sit comfortably with the host property and neighbouring properties and would respect its architectural style and appearance in accordance with the design guidance set out in CPG1, policies CS14 and DP24 of the LDF and policy 2: Design and Character of the FGWHNP.

## **Provision & Quality of Residential Floorspace**

The three bedroom five person unit proposed would have a GIA of 86.89sq.m meeting both Camden's floorspace standards and the London Plan standards in terms of overall size and bedroom size. It would provide a good standard of accommodation for future occupiers with a satisfactory level of daylight, outlook, privacy and amenity space (10.66sq.m) being provided in accordance with CPG2, policy 3.5 of the London Plan and policy 1 of the FGWHN.

## **Residential Amenity**

The closest residential units to the Appeal Site are to the west at No.56 Mill Lane, to the east at No.60/62 Mill Lane, to the south at No.3 Dornfell Street and directly above at No.58 Mill Lane.

The proposal originally included a two-storey rear extension at lower ground and ground floor levels. Following concerns being raised that the extension would appear visually overbearing and result in a loss of outlook and daylight to neighbouring residential properties in Mill Lane, the proposal was amended with the ground floor element being removed. The single-storey rear extension now proposed at lower ground floor level would have a similar relationship with Nos.56 and 60-62 Mill Lane and No.3 Dornfell Street as the existing workshop building and being similar in height and scale on the eastern, western and southern boundaries would have no greater impact on the amenity of any adjoining residential occupiers.

Similarly, given the proposed siting and design of the lightwell and the mansard roof extension and their distance from the nearest neighbouring residential properties in Mill Lane and Dornfell Street, the proposal would have no adverse impact on the amenities of adjoining occupiers in terms of access to sunlight, daylight, outlook, sense of enclosure, noise and disturbance or privacy. As such, the proposal would be in accordance with policies CS5 and DP26.



## **Other Matters**

### **Excavation Works**

The floor level to the existing basement area is to be lowered to provide an increased ceiling height of 2.74 metres. This would include the undercroft, formerly used as a coal hole, and would involve lowering the floor slab level of the existing rear workshop area by 200mm. The surrounding brick party walls are to be underpinned accordingly.

The proposed method for removal of the excavation and demolition waste is conveyor belt extraction through the existing coal hole. The belt will feed a lorry parked on a suspended parking bay on Mill Lane. Pedestrian access along the parade will be maintained using a plywood bridge structure that will enclose the conveyor belt and provide a minimum of 2 metres head clearance for the pedestrian below. Tender documents will require a full method statement from prospective contractors to reflect the minimum requirements above and provide a detailed fill disposal plan for all material to be removed from site, in compliance with environmental legislation. The proposed slab to the lower ground floor area is a raft slab that will obviate the need for trench foundations along the rear boundaries and allow the slab to be cast from within the existing premises, minimising disruption to neighbouring occupiers.

Construction works generally result in a certain level of noise and general disturbance to adjoining properties. Such works are controlled by the Control of Pollution Act 1974, which sets out appropriate hours of working (these are normally Monday to Friday between 8am and 6pm, Saturday between 8am and 1pm and at no time on a Sunday or Bank Holiday) and sets out how construction works should be carried out to minimise noise and nuisance. An informative highlighting the need to comply with this legislation, which is outside the control of planning, is considered to be appropriate.

### **Mayor of London's Crossrail CIL & Camden's CIL**

The proposal will be liable for both the Mayor of London's CIL and Camden's CIL as the net increase in floorspace of 149.3sq.m exceeds 100sqm GIA. Based on the Mayor's CIL and Camden's CIL charging schedules and the information given on the plans, the charges are likely to be £7,465 (149.3sq.m x £50) for Mayoral CIL and £74,650 (149.3sq.m x £500) for Camden's CIL. An informative is to be attached advising the applicant of these charges.

## **7. APPLICATION FOR COSTS – UNREASONABLE BEHAVIOUR**

Not Applicable.

## 8. CONCLUSIONS

It is important to note that there is no dispute that the Appeal Site is suitable for residential development. However, there is a disagreement with the interpretation of development policy. Councillors and the Council's Transport Department have agreed this Appeal can be approved on the proviso that a car free obligation is secured, which the Appellant does not want to enter into.

The Appellant is not willing to enter into a Section 106 Agreement to remove the occupants' eligibility for parking permits. Council Planning Officer's will not support the proposal without such an agreement.

The key transport issue for the appeal is whether the Appeal Site's location and the conditions on-streets surrounding the Appeal Site require the Appellant to enter in to a Section 106 Agreement for the proposal to be in accordance with the Development Plan and whether an Agreement is necessary to mitigate potential parking impacts.

As discussed in the Transport Statement of Case prepared by Kronen Limited:

- The Appeal Site is in a Neighbourhood Centre rather than a more significant Town Centre
- The Appeal Site has good but not excellent public transport accessibility
- Streets surrounding the Appeal Site do not have high parking stress conditions
- The Local Development Plan policies do not "require" the Appeal to be car free by agreement
- Without a car free agreement the Appeal will not have a "severe" impact
- A car free agreement is not "necessary"

The Appellant reserves the right to add to, alter, or amend these Grounds of Appeal as may be necessary.

**JAMES LLOYD ASSOCIATES LIMITED**

24 May 2016