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Dear Mr Dunn,

Town and Country Planning Act 1990
Appeal by KSTTK PROPERTIES
Site at 38 Leighton Grove, NW5

Proposal: Erection of a mansard roof extension and conversion of maisonette into 2 residential units

Summary

The appeal relates to a three storey plus basement mid-terrace property located towards the southern end of Leighton Grove, north east of the junction with Leighton Road. The host building is in residential use throughout and has been converted into three self-contained flats.

The surrounding area is predominantly residential in character.

Although the application site is not listed, nor located in a conservation area, it sits within an area of pleasing Victorian and uniform character. The host building sits within a row of 10 properties with an unbroken roofline and is considered to make a positive contribution towards the character and appearance of the area. The only properties which feature roof extensions within the wider terrace of 19 four storey Victorian properties are at nos. 29 and 30 and Nos. 22 and 23.

Planning permission was refused on 12 May 2016 for:- the erection of a mansard roof extension and conversion of 1st/2nd floor maisonette to 1 x 1 bedroom flat and 1 x 2 bedroom maisonette. It was refused on the grounds that:

- i) the proposed roof extension by reason of its height, bulk, detailed design and location on a terrace of properties with a largely unimpaired roofline would be detrimental to the character and appearance of the building and the terrace; and

- ii) 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.

The Council's case is largely set out in the officer's report, a copy of which was sent with the questionnaire. In addition to this information, I would ask the inspector to take into account the following comments.

Status of Policies and Guidance

The London Borough of Camden Local Development Framework was formally adopted on the 8th November 2010. The policies of relevance to the appeal scheme are set out in the delegated report and decision notice. The full text of the relevant policies was sent with the questionnaire documents.

The Council also refers to supporting guidance documents CPG1: Design, CPG2 Housing, CPG6: Amenity and CPG7: Transport. The Camden Planning Guidance has been subject to public consultation and was approved by the Council in July 2015.

With reference to the National Planning Policy Framework 2012, policies and guidance contained within Camden's LDF 2010 are up to date and fully accord 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.

Comments on the appellant's grounds of appeal

The appellant's grounds of appeal are summarised as follows and addressed beneath:

1. Design

The appellant argues that the central window maintains symmetry, is of a sympathetic design and is not a sufficient reason for refusal.

Concerns were not raised by the Council during the application process regarding the central rear window or the detailed design of the mansard. Furthermore it is not generally a rule that the rear fenestration to a roof extension should match that of the existing building below.

The application proposes a greater set back than recommended by CPG1 (Design) guidance, and the parapet wall is particularly high; reducing the visual impact of the extension from the street and neighbouring properties.

By approving the development and allowing a precedent to be set, the terrace could again become more unified.

2. Impact on street scene

The street slopes downhill from the North and as such the proposal would be largely hidden by and lost amongst the stepped nature of the chimneys, party walls and the greatly altered parapet walls that front the terrace. Numbers 39-41 totally conceal the proposal from the Southern end of the street. Many mature trees conceal the proposal from view.

Many other properties have had their front parapet walls rebuilt; coupled with the sloped nature of the street and the resulting staggering of the properties, there is very little cohesion to the roof-line. The addition of the proposed mansard will not cause any further harm to the character and appearance of the surrounding area.

3. Surrounding development

Similar applications at numbers 22, 23, 28 and 29.

The original extension at no.23 was small and entirely hidden from view, simply providing access to the roof. Therefore it cannot be argued that this approval was given based on the replacement of an existing extension. The approval at number 22 then seemingly followed this false precedent. The officer's reports from these two applications directly contradict the opinions expressed in this refusal but were based on the same policy.

4. Benefits of providing residential accommodation

The Council argues that the development would set a harmful precedent; however, the proposal would result in further residential units and floor space in accordance with Camden's policies.

The Council's response to ground of appeal 1

The appeal building sits within a row of 10 properties characterised by their unaltered uniform roofscape. Within the larger terrace of 19 properties, only 3 feature development at roof level. All of the unaltered roofs feature a valley roof set behind and below a front parapet, with the exception of one which was changed to a flat roof behind the front parapet and is not visible from ground level.

Camden Planning Guidance (CPG1 – Design) explicitly states that roof level alterations are likely to be unacceptable where:

- There is an unbroken run of valley roofs;
- Complete terraces or groups of buildings have a roof line that is largely unimpaired by alterations or extensions, even when a proposal involves adding to the whole terrace or group as a co-ordinated design (paragraph 5.8).

The birds-eye photograph below (photo 1) depicts the terrace within which the application site sits, and the row of 10 surrounding properties with an unbroken roofline. The Council is of the opinion that any development at roof level which breaks this uniformity would be harmful to the host building and wider terrace.

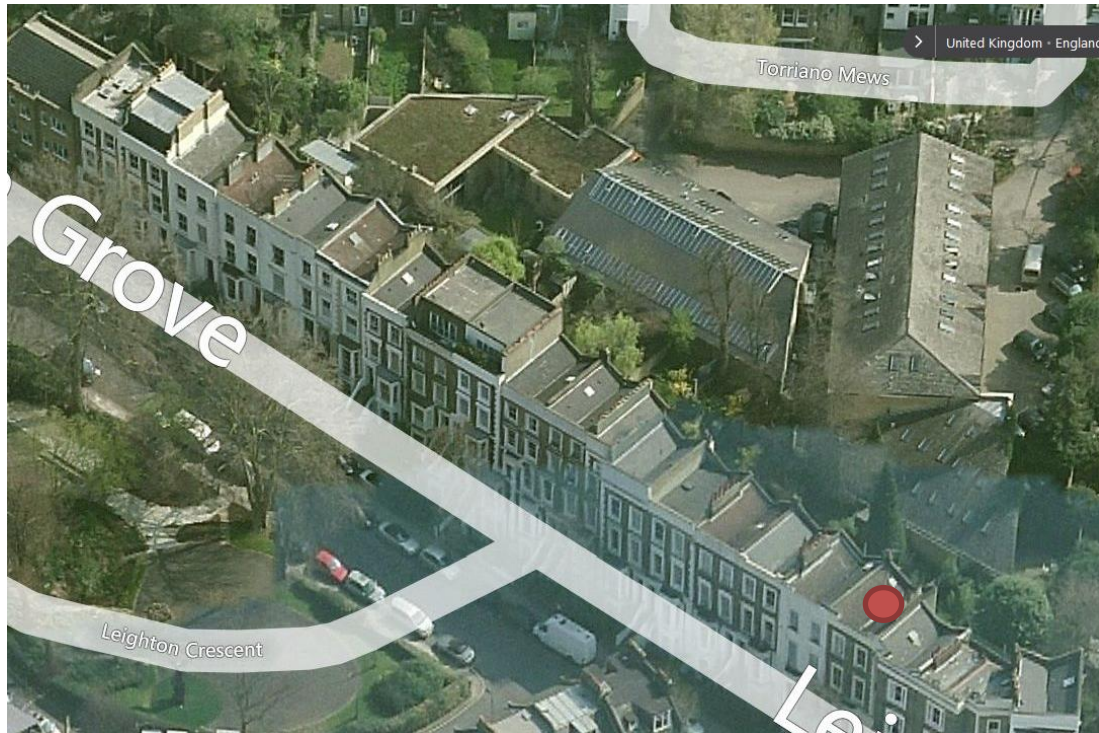


Photo 1: Aerial view of Leighton Grove (appeal site marked in red).

The appellant argues that the mansard has been set back from the high parapet wall which reduces the visual impact of the extension from the street and neighbouring properties. Despite this setback, the extension would still clearly project above the parapet wall and would be visible from a number of points along Leighton Grove. The appellant's own visualisations, submitted in support of their application, show that the mansard would be highly visible (photos 2 and 3).



Photo 2: Left photo shows the existing condition. Right visualisation depicts the proposed mansard extension (appeal site denoted by red arrow).



Photo 3: Left: existing. Right: Visualisation of proposed mansard.

The development would also result in the loss of the attractive valley roof profile to the rear of the appeal property thereby disrupting the existing rhythm and form of valley roofs along this part of the terrace.

The appellant states that concerns were not raised during the application process regarding the detailed design of the mansard or the rear window; and that it is not generally a rule that the rear fenestration to a roof extension should match that of the existing building below.

The Council did not suggest making amendments to the design of the proposal as the development was considered unacceptable in principle. It would be unreasonable for the Council to request changes to the detailed design of the proposal when it is not considered that they would have made the overall development acceptable.

The rear window projects from the roof slope in the style of a dormer window and therefore the Council considers paragraph 5.11 of CPG1 (Design – roof dormers) to be of relevance. It advises that in number, form, scale and pane size, the dormer and window should relate to the façade below and the surface area of the roof. They should appear as separate small projections on the roof surface. They should generally be aligned with windows on the lower floors and be of a size that is clearly subordinate to the windows below. The Council is of the opinion that the window appears overly large and does not respect the existing fenestration pattern below.

Response to ground of appeal 2

The Council's response to ground of appeal 1 above also discusses the visibility of the proposal from street level along Leighton Grove. Photo 4 below shows the view of the appeal site from Leighton Crescent opposite the site. The application site is clearly visible, and not shielded from view by trees.



Photo 4: Appeal site (marked by the red arrow) as viewed from Leighton Crescent.

The council acknowledges that at certain points along the road there will be more limited views of the proposed mansard roof; however, it would be clearly visible above the front parapet at a number of angles. The development would fundamentally alter the roof form which would have a detrimental impact on the appearance of the host building, the wider terrace and street scene.

The appellant argues that there is little cohesion to the roof-line due to the sloping ground level and changes to the front parapets of a number of parapets. Although there may be slight differences in the height and style of roof parapets; the Council argues that these are minor alterations and do not justify the erection of a large mansard roof extension which would break up the existing intact roofline.

Response to ground of appeal 3

The appellant discusses previously approved roof extensions along the surrounding terrace. The Council would like to draw the inspector's attention to the fact that roof extensions were granted at nos. 22, 23, 29 and 30; not no.28 as the appellant states. The Council acknowledges that permission was granted at these four properties, but would emphasise that the permission granted at no.22 was not implemented, and is now extant.

The Council maintains that each proposal must be judged on its own merits on the basis of the development plan and all other material considerations. In this case, the appeal site sits towards the southern end of the terrace where there is a lack of roof level development. The approved extensions sit towards the northern end of the terrace. The proposed extension at the appeal site would protrude about the existing parapet level, and in doing so, significantly disrupt the unbroken and unimpaired roofline of this southern section of the terrace, thereby undermining its architectural composition.

The extension at no.23 is less visible than those at nos. 29 and 30 which were approved in 1977 and 1973 respectively. These were granted based on historic policies and would be unlikely to receive planning permission today due to their excessive height and detailed design. The extension at no.23 was granted in 2009, and replaced a previous roof extension granted in 1985. Regardless of the size of the original extensions at nos. 22 and 23, these applications were approved based on the particular circumstances of each site, and do not automatically set a precedent for future development elsewhere along the terrace. Only 3 out of 19 properties feature a mansard extension. This is by no means a majority, and they are not considered to set a precedent for future development. This point is emphasised by Policy DP24 which states that past extensions or alterations to surrounding properties should not necessarily be regarded as a precedent for subsequent proposals for alterations and extensions.

Response to ground of appeal 4

The Council argues that the benefits of providing additional residential accommodation do not outweigh the harm caused to the character of the building and surrounding unaltered roofscape.

Conclusion

In conclusion, the Council maintains that the proposed development would harm the character and appearance of the host building, wider terrace and surrounding streetscene. I ask the inspector to uphold the Council's policy, guidance, London Plan policies and the advice contained in NPPF and dismiss this appeal.

Suggested conditions and S106 agreement should the appeal be allowed.

In the event of the appeal being allowed, the inspector is requested to impose the conditions and S106 matters set out in appendix 1 below. The application is unacceptable in the absence of a car free agreement, and the terms of this agreement and justification are set out in appendix 1. The Council will approach the appellants prior to the final comments stage requesting agreement to enter into a S106 should the inspector allow the appeal. PINS will be notified of the outcome of this approach to the appellants. The inspector is asked to uphold this reason for refusal.

Yours sincerely

Laura Hazelton

Planning Officer

Appendix 1

Conditions and S106 matters

Planning permission 2016/1523/P and appeal APP/X5210/W/16/3152200

Conditions:

1. The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

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 policies DP24 and DP25 if in CA of the London Borough of Camden Local Development Framework Development Policies.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: 15222/TP/01, 15222/TP/02, 15222/TP/03, 15222/TP/04, 15222/TP/06, Design and Access Statement dated February 2016.

Reason: For the avoidance of doubt and in the interest of proper planning

S106 Matters:

The development be subject to a S106 agreement that:

1. The development is car-free.

Justification for the above S106 matters

Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the "CIL Regulations") creates statutory tests to determine whether a planning obligation is capable of being a reason for granting planning permission.

Obligations must be:

1. necessary to make the development acceptable in planning terms;
2. directly related to the development; and
3. fairly and reasonably related in scale and kind to the development.

This note considers and explains, in respect of the planning obligation proposed in the draft Section 106 agreement, with reference to the London Borough of Camden's ("the Council") core strategy and development plan policies and associated guidance and the impacts of the development, how each of the measures proposed can be demonstrated to be compliant with these legislative tests.

Having considered these three tests and applied them to the obligation contained in the Section 106 Agreement relating to 38 Leighton Grove, London, NW5 2QP ("the Site"), the Council is satisfied that the obligation contained in the Section 106 Agreement relating to the Site meet the three tests.

1 Car Free

The reasons for this are to facilitate sustainability and to help promote alternative, more sustainable methods of transport. Considering the site has a Public Transport Accessibility Level of (PTAL) of 4 (good), and is located within a Controlled Parking Zone (CAG) which is considered to suffer from parking stress, the development should be secured as car free through a s106 legal agreement if the appeal were allowed.

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.

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".

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.