

1. Introduction

- 1.1. This appeal follows the refusal of the London Borough of Camden to grant planning permission for the *erection of observatory at 8th floor level of residential building*

2. THE SITE

- 2.1. The building at 10a Belmont Street is of a rectangular shape, with the new brick and glass addition currently under construction granted at appeal. The fenestration style on the front elevation of the building is a uniform pattern, with uniform replacement windows having been installed as part of the conversion works.
- 2.2. The area is primarily a residential part of Camden Town with a mixture of 3 storey Victorian houses, post-war 8 – 22 storey housing blocks, garages and warehouses. The general character changes to more commercial uses (often with residential above) to the south, including some business uses around the application site and along the access road leading to Ferdinand St, with shops and town centre uses fronting Chalk Farm Rd.
- 2.3. The site is in a highly accessible location, close to Chalk Farm Road which provides regular bus services to north and central London. The site is also in close proximity to Chalk Farm tube station and has a public transport accessibility level (PTAL) of 5, which is a very good rating.
- 2.4. The previous Inspector recorded the site as thus:
Other than a council-run resource centre for elderly people, the buildings in Belmont Street and in the immediate vicinity of the appeal building are mostly residential. Nonetheless, it lies very close to the retail and commercial centre of Chalk Farm, and the wider area is of mixed, urban character. The age of the buildings ranges from eighteenth century to very modern. Some have been modified from their original purpose and extended, notably the distinctive Roundhouse venue close by in Chalk Farm Road. In scale they range from single-storey through to tower blocks. Brick is the most common building material, though it is not universal. Flat roofs, or roofs hidden behind parapets predominate, but some pitched roofs may also be seen.

3. The Proposal

- 3.1. The proposed works are described on the accompanying drawings. In summary, the following is proposed as part of this application.
- The observatory will be constructed from glass and steel and will be located upon the existing green roof of the host building. It will be at height of 2.5m from the roof level; and will result in the building having a total height of approximately 28.0m from the ground.
- 3.2. Policies CS14, DP24 and DP26 seek high quality design in redevelopment schemes without harm arising to identified material considerations, including neighbour amenity. DP24 is an aspirational criteria based policy. DP 25 seeks to conserve Camden's heritage, and to ensure the new development responds to the characteristics of the designated assets. DP26 is a development control policy, further comment on which is provided below.

4. Response to the LPA's reasons for refusal

- 4.1. Officer refer to DP 25 within the reason for refusal, but this policy text nor its reasoned justification refers to 'non-designated heritage assets'. It is acknowledged that there is reference to *other heritage assets* but these are identified at 25.23 of the DPD and this does not include reference to locally listed buildings.
- 4.2. It is trite law, but valuably restated by Lord Reed in *Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13; [2012] PTSR 983, that a planning policy is published in order to inform the public of the approach which will be followed unless there is good reason to depart from it, and is designed to ensure consistency and direction in the exercise of discretionary powers, while allowing a measure of flexibility. As in other areas of public administration, planning policies "should be interpreted objectively in accordance with the language used, read as always in its proper context." [18]. Lord Reed continued his judgment with this important passage:
- "That is not to say that such statements should be construed as if they were statutory or contractual provisions. Although a development plan has a legal status and legal effects, it is not analogous in its*

nature or purpose to a statute or a contract. As has often been observed, development plans are full of broad statements of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment. Such matters fall within the jurisdiction of planning authorities, and their exercise of their judgment can only be challenged on the ground that it is irrational or perverse: Tesco Stores Ltd v Secretary of State for the Environment [1995] 1 WLR 759, 780, per Lord Hoffmann. Nevertheless, planning authorities do not live in the world of Humpty Dumpty: they cannot make the development plan mean whatever they would like it to mean."

-
- 4.3. This does not mean that a planning policy should be given a strained interpretation, but it does mean that the words have a context. A policy's plain meaning, if there is one, must be seen in the light of its context and purpose and the appeal must be determined on this basis.
- 4.4. On all sites, it is appropriate to follow the principles of good design. It has long been the Secretary of State policy that design matters need to be considered objectively, and in expressing this policy in the NPPF advises that LPA's should not concern themselves with matters of detailed design unless local circumstance dictates it.
- 4.5. To that end, the decision maker has the benefit of an appeal decision (APP/X5210/A/13/2194704) pertaining to the subject site which establishes that:
- To my mind, the surroundings impose few design constraints. In view of the scale of buildings in the vicinity, there are no issues in principle concerning height: there are several taller buildings in the neighbourhood, including the nearby Hardington House tower block, at 11 storeys plus a lift enclosure, and another tower block on the Denton estate at over 20 storeys. These prominent buildings and others of a similar age are not of any great architectural merit. There are several older blocks of apartments nearby having 7 or 8 floors, comparable in scale to what is proposed.*
- 4.6. No material change of policy or circumstance has occurred since this decision to permit deviation from the clear findings of fact and principle. In support of the proposal, it is noted that this decision establishes the principle that a taller built form could be successfully accommodated on the site due to the taller nature of the surrounding buildings.

- 4.7. Those elements lauded by the previous Inspector, namely the recessing of the upper floors and use of lightweight glazing materials remains as part of the revised proposal. The extension will be read as a modern lightweight addition to the original fabric. The observatory will not affect the horizontality of the original building, as no changes are sought to that elevation, and indeed the developer has enhanced its appearance already through significant investment. It will be visible in those same long distance views noted by the Inspector but will add interest to the silhouette and be framed by the taller buildings in the same views.
- 4.8. It is therefore important to note that roof projections are very common within the immediate and wider vicinity. There is very little in the way of harmonious eave or roof lines, and indeed projections can be found on almost every building within the area of search (see photo Appendix).
- 4.9. The Officers then comment on the current scheme, advising:
The proposal is not supported by them due to what is considered an awkward feature upon what the tallest building within the vicinity which will be prominent when viewed from the street scene, particularly Chalk Farm Road.¹
- 4.10. As a statement of fact, the building is not the tallest in either the immediate or wider vicinity, as recorded by the previous Appeal decision and such a statement is embarrassing for Officers to try and substantiate this point when it will be readily dismissed on the site visit.
- 4.11. They also comment:
The host building has already benefitted from various extensions and alterations to include pergolas and balconies and it is considered a further addition at roof level in accumulation with the previous developments will overwhelm the building and its character.

¹ Email advice to Appellant 30/12/16

- 4.12. The balconies were a (ingenious) re-use of the existing but now redundant fire escapes to provide much needed private amenity space of the type advocated at by the Mayors Housing SPG to improve quality of life for residents.
- 4.13. What is more amazing, these balconies and all other appurtenances were granted planning permission by the Borough so their relevance to the determination is limited, particularly as they attempted to make the same point previously (see above)

5. Conclusion

- 5.1. The Appeal scheme represents a proposal in accord with the Development Plan, and should have been granted planning permission for the reasons previously expressed.









