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Contact: Kate Henry
Direct Line: 020 7974 2521
Kate.Henry@camden.gov.uk

Planning and Regeneration
Culture & Environment
Directorate
London Borough of Camden
2nd Floor, 5 Pancras Square
London
N1C 4AG

Arash Nazemi
The Planning Inspectorate
3P - Kite
Temple Quay House
2 The Square
Bristol,
BS1 6PN

Tel: 020 7974 6751
www.camden.gov.uk/planning

Dear Mr Nazemi,

Appeal site: Flat 1st and 2nd Floor, 90 Torriano Avenue, London, NW5 2SE

Appeal by: Mr James Williams

Proposal: Two storey front extension at first and second floor levels, mansard roof extension, replacement windows, in association with conversion of existing 1st and 2nd floor flat (3-bed) into 2x self-contained flats (1x 1-bed flat and 1x 2-bed flat) (Class C3)

I refer to the above appeal against the Council's refusal to grant planning permission. The Council's case is largely set out in the Officer's delegated report. The report details the application site and surroundings, the site history and an assessment of the proposal. A copy of the report was sent with the questionnaire.

In addition to the information sent with the questionnaire, I would be pleased if the Inspector could take into account the following information and comments before deciding the appeal.

1. Summary

- 1.1. The application site is the first and second floor flat at 90 Torriano Avenue, which is a residential building in Kentish Town. The Council's policies seek to ensure that new residential development provides an acceptable standard of living for future occupiers; that all development, including alterations and extensions to existing buildings, is of the highest standard of design; that development does not cause harm to the amenities of nearby and neighbouring occupiers; and that new development promotes sustainable forms of travel and does not contribute unacceptably to parking stress and congestion in the area.

- 1.2. The proposal to extend the building and to create an additional self-contained flat within would fail to meet the aforementioned policy requirements insofar as the proposed new flat would fail to meet the Government's space standards, thereby failing to provide an acceptable standard of living for future occupiers; the proposal would cause harm to the character and appearance of the host building, the group of buildings and the street scene; and the proposal would cause undue loss of outlook to the neighbouring property, No. 88 Torriano Avenue. Furthermore, in the absence of a satisfactory legal agreement to secure 'car-free' housing, the proposal would contribute unacceptably to parking stress and congestion in the surrounding area.
- 1.3. The planning application was refused for the following reasons:
 1. *The proposed 1-bed flat, by virtue of its size, would fail to meet the requirements of the Government's "Technical housing standards - nationally described space standard" and would therefore fail to provide a satisfactory standard of living for future occupiers, contrary to policies CS5 (Managing the impact of growth and development) and CS6 (Providing quality homes) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (securing high quality design) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.*
 2. *The proposed front extension and mansard roof above, by virtue of their size, scale, siting, design and appearance, would result in an incongruous and inappropriate addition to the application building, that would be detrimental to the character and appearance of the application building, the group of buildings and the street scene along Torriano Avenue, contrary to Policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and Policy DP24 (Securing high quality design) of the London Borough of Camden Local Development Framework Development Policies.*
 3. *The proposed front extension and mansard roof above would cause undue loss of outlook to the neighbouring property, No. 88 Torriano Avenue, contrary to policy CS5 (Managing the impact of growth and development) of Camden Local Development Framework Core Strategy and policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.*
 4. *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.

5. *The proposal would fail to provide secure cycle parking for the new units, 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 policy DP18 (Parking standards and the availability of car parking) of the London Borough of Camden Local Development Framework Development Policies.*

2. Status of policies and guidance

- 2.1. In determining the application the London Borough of Camden has had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case.
- 2.2. With reference to the National Planning Policy Framework 2012 (NPPF), policies and guidance contained within Camden's LDF 2010 are consistent with emerging policies (see below) and as such they are up to date and accord with paras. 214-216. The Council's policies should therefore be given substantial weight in the decision of this appeal. The NPPF 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.
- 2.3. Last summer, the Camden Local Plan was formally submitted to the government for public examination. Following the public hearings, the Council has consulted on Main Modifications to the Local Plan. Following the Inspector's report into the examination, which is expected in early-mid April 2017, policies in the Local Plan should be given substantial weight. Adoption of the Local Plan by the Council is anticipated in June or July. At that point the Local Plan will become a formal part of Camden's development plan, fully superseding the Core Strategy and Development Policies, and having full weight in planning decisions.
- 2.4. The following policies in the emerging Local Plan are considered to be relevant:
 - G1 Delivery and location of growth
 - H1 Maximising housing supply
 - H6 Housing choice and mix
 - H7 Large and small homes
 - A1 Managing the impact of development
 - A4 Noise and vibration
 - D1 Design
 - CC1 Climate change mitigation
 - CC2 Adapting to climate change

CC3 Water and flooding
CC5 Waste
T1 Prioritising walking, cycling and public transport
T2 Car-free development and limiting the availability of parking
T4 Promoting the sustainable movement of goods and materials
DM1 Delivery and monitoring

- 2.5. The overall aims of the policies in the emerging Local Plan, insofar as they relate to this case, are considered to be broadly similar to those in the Council's existing Local Development Framework.

3. Comments on appellant's grounds of appeal

- 3.1. The appellant's grounds of appeal are summarised below and addressed beneath as follows:

1. Standard of living for future occupiers
2. Design principles
3. Transport considerations

- 3.2. In their appeal statement, the appellant has grouped together refusal reasons 2 and 3, stating that they both refer to design principles. The Council remains of the opinion, however, that the impact on the character and appearance of the host building, the group of buildings and the street scene (reason 2) and the impact on nearby and neighbouring properties (reason 3) are two separate issues, and will therefore address these issues separately in this statement (as was done in the original Officer's Report).

Standard of living for future occupiers

- 3.3. At the time of the planning application, the appellant referred to the proposed first floor, 1-bed flat as a "studio"; however, the Council altered the description to "1-bed flat" in line with the guidance set out in the Government's "Technical housing standards – nationally described space standard" (2015). This is because the guidance states that in order to provide 2x bed spaces, a double (or twin bedroom) will have a floor area of at least 11.5m. Furthermore, the proposed bedroom is clearly a separate and self-contained room, whereas the term "studio" usually refers to a unit in which sleeping and eating facilities are all within one room.
- 3.4. As noted in the Officer's Report, the technical standards require a 1-bedroom-2-person (1 storey) dwelling to provide 50sqm of floor space (including 1.5sqm of built-in storage), which this unit would fail to do as it would only measure approximately 46sqm.
- 3.5. The appellant notes in paragraph 2.5 of their statement that, "*While the proposed property delivers a double bedroom this does not necessarily assume that the property will be occupied by two adults*" and that the unit exceeds the space standards for a 1-person unit. However, the purpose of

the space standards is to ensure that new residential units provide adequate amounts of space for the number of occupants they are likely to house. If the flat is providing 2x bed spaces, the rest of the unit must be of sufficient size to cater for 2x adults.

- 3.6. The text to accompany the London Plan is clear that new homes should have adequately sized rooms and convenient and efficient room layouts which are functional and fit for purpose and which meet the changing needs of Londoners over their lifetimes. The Council considers it reasonable to assume that a flat with a double bedroom may be occupied by two adults at some point in the future, and the Council's role is to ensure that newly created residential units in the borough are of sufficient size to cater for their occupiers.
- 3.7. The appellant notes that the space within the communal storage room should count towards the space in this unit; however, they also note that this room (annotated as 'Study' on the plans) should provide cycle storage. The space cannot count towards the space within the residential unit if it is not contained within the unit and if it is shared with other users. Even if the space in the study could be counted, the layout does not represent an efficient room layout, as required by the Council's policies and guidance and the London Plan.
- 3.8. The appellant notes in paragraph 2.2 of their statement that the proposal would make efficient use of space and would represent sustainable development in accordance with paragraph 7 of the NPPF. However, the proposed new dwelling would not provide an acceptable living environment for future occupiers, contrary to the requirements of Policy DP26, and therefore the Council is of the opinion that the development would fail to fulfil the social role necessary to achieve sustainable development as prescribed by the NPPF. There are no positive elements of the scheme which outweigh the harm and the Inspector is therefore respectfully requested to dismiss the appeal for this reason.

Design quality

- 3.9. The second reason for refusal was based upon the harm that would be caused to the application building, the group of buildings and the street scene along Torriano Avenue as a result of the front extension and mansard roof above. It was considered that the front extension and the mansard roof, by virtue of their size, scale, siting, design and appearance, would result in an incongruous and inappropriate addition to the application building.
- 3.10. Torriano Avenue, which dates back to the 1840's, is a relatively quiet, tree-lined street in Kentish Town. There are a variety of building styles and ages on the street. The road is predominantly residential in character; however, there is a pub across the road from the application site and there are some small businesses near to the junction with Leighton Road. Further to the south is Torriano Primary School.

- 3.11. No. 90 Torriano Avenue is a three-storey (plus basement) terraced property, constructed with stock bricks. The property retains its original butterfly roof. The original front facade of No. 90 (as well as Nos. 84 to 88) is set back from the front facades of Nos. 92 to 102 by approximately 4.7 metres. Nos. 84 to 90 all have a two storey front extension (lower ground and upper ground floor level) which extends out to the front by approximately 3.7 metres, with an open lightwell to the front with stairs providing access to the lower ground floor level from the street level. There is a similar arrangement at the terrace of properties opposite the application site (Nos. 59 to 67) insofar as they are set back from the adjacent row of properties at first floor level upwards.
- 3.12. The appellant states in paragraph 2.13 of their statement (in relation to the proposed extensions) that, "*it is not considered that such a change reaches a definition of harm that can be said to be significant in Development Plan terms*" and they even go as far as to state that, "*the design brought forward contributes to the wider street scene setting in a manner that enhances rather than causes detriment...*". In the next paragraph they note that, "*the proposed extensions are proportionate and reasonable*". However, they fail to qualify these statements.
- 3.13. The Council wholeheartedly and in the strongest terms disagrees with the statements made by the appellant with regards to design.

Two storey front extension

- 3.14. As noted in the Officer's Report, the Council considers that the proposal to extend the building at the front at first and second floor levels is wholly inappropriate. The proposed front extension would not appear subordinate to the building in terms of location, form, scale, proportions or dimensions. Neither would it respect or preserve the original design and proportions of the host building, including its architectural period and style. Rather than retaining and preserving existing historic architectural features, such as the window openings and the parapet wall etc., the proposal would seek to replicate the same details on the newly built front façade. For all these reasons, the proposal would fail to accord with Policy DP24 and the guidance within CPG1 (Design).
- 3.15. The Council would also like to reiterate the point (made in paragraph 4.5 of the Officer's Report) that the original building has already been extended at the front at lower and upper ground floor levels, and the proposal to now also extend at first and second floor levels at the front represents significant overdevelopment of the original building, again contrary to the Council's design policies and guidance. As noted in the Officer's Report, as a result of the proposal it would no longer be possible to discern the original building. Furthermore, the resultant building would appear excessively deep from front to back, which is out of keeping with the surrounding pattern of development.
- 3.16. Contrary to the appellant's assertions, the proposal would also cause harm to the character and appearance of the wider street scene. The Council maintains that the group of buildings to which the application building forms a

part (Nos. 84 to 90) make up an attractive group in townscape terms, and to a certain extent they mirror the terrace of properties opposite (Nos. 59 to 67) due to the set-back above ground floor level. The proposal to significantly alter the frontage of No. 90 would cause significant harm to the group value of the buildings as the proposal would fail to preserve and respect the historic pattern of development and it would cause significant harm to the visual relationship between the buildings. Again, this is contrary to the Council's design policies and guidance.

- 3.17. The Council also wishes to reassert the point that they consider that the resultant building would appear as an unsuccessful hybrid of two separate terraces, rather than appearing to belong fully to one or the other. It would be clear to anyone viewing the building from the south on Torriano Avenue that significant and unsympathetic changes had occurred at No. 90. This would be to the detriment of the character and appearance of the wider area.

Mansard roof

- 3.18. As explained in the Officer's Report (paragraphs 4.9 to 4.13), the proposed mansard roof would fail to accord with the Council's design guidance on roof extensions (CPG1) insofar as it would sit above the two storey front extension as well as the original building, and therefore it would not continue an existing pattern of development (instead it would look wholly incongruous and overly large).
- 3.19. The mansard could not be said to be architecturally sympathetic to the age and character of the host building because, as mentioned above, it would no longer be possible to discern the original building following the erection of the front extension. The proposal would also fail to retain the overall integrity of the roof form, as the building would be extended forward all the way up to roof level.
- 3.20. The proposed mansard, sitting above the new front extension, would add significant bulk and unnecessary additional height to the host building, and as noted in the Officer's Report, the effect would be worsened by the fact the front building line would be brought so far forward of the neighbouring building to the south, No. 88.

Summary

- 3.21. To conclude this section, the Council firmly considers that the proposed additions to the building (the front extension and mansard roof) would cause excessive and undue harm to the character and appearance of the host building, the group of buildings and the street scene along Torriano Avenue. The appellant points out that the creation of additional housing is a key priority; however, in the Council's opinion, the proposed new residential unit would fail to provide a satisfactory standard of accommodation for future occupiers and therefore this does not weigh in favour of the development. Even if the standard of accommodation was considered to be acceptable, the provision of an additional residential unit would not outweigh the harm

caused to the host building and wider area as a result of the proposed extensions. The Inspector is therefore respectfully requested to dismiss the appeal for this reason.

Impact on neighbouring properties

- 3.22. The Council's third reason for refusal related to the loss of outlook that would occur to No. 88 Torriano Avenue as a result of the proposed front extension and the mansard roof above.
- 3.23. The appellant has failed to provide any comment on the harm that the Council envisages, other than stating that, "*the proposal makes the best use of the land by modestly contributing an additional property to the local housing property in such a manner that does not inflict detrimental harm*".
- 3.24. The Council has clearly set out, in paragraphs 5.1 to 5.5 of the Officer's Report, the reasons why they think the proposal would cause harm to the outlook at No. 88, and there is no reason to repeat the report.
- 3.25. In summary, the Council still considers that the proposal would cause undue harm to outlook at No. 88 Torriano Avenue. The Inspector is therefore respectfully requested to dismiss the appeal for this reason.

Transport considerations

Car free development

- 3.26. The Council's fourth reason for refusal related to the impact on parking stress and congestion in the surrounding area, in the absence of a legal agreement to secure car-free housing.
- 3.27. The appellant's appeal statement notes that a unilateral undertaking accompanies the report, which states that the appellant agrees to the additional unit being car free (i.e. future occupiers would not be able to apply to the Council for a parking permit). However, the unilateral undertaking referred to has not been provided yet and therefore the Council cannot comment on this. In the absence of the unilateral undertaking, a draft copy of a section 106 legal agreement will be sent to the appellant and The Planning Inspectorate with this appeal statement. PINs will be updated on any progress at the final comments stage.
- 3.28. Justification for the legal agreement is provided in Appendix B.

Cycle parking

- 3.29. The Council's fifth reason for refusal related to the lack of cycle parking to serve the newly created units. The appellant's appeal statement notes that the room annotated as a 'Study' on the plans can be used for communal cycle storage. It is worth reiterating at this point that the space in question

can't count towards the floor space within the 1-bed flat and also be used for communal storage purposes.

- 3.30. The London Plan 2016 requires 1 cycle space per studio or 1-bed flat and 2 spaces for all other dwellings, which equates to a requirement of 3 cycle spaces in this case.
- 3.31. CPG7 (Transport) notes that cycle parking should be provided off-street, it needs to be accessible (in that everyone that uses a bike can easily store and remove a bike from the cycle parking) and it needs to be secure (in that both wheels and the frame can easily be locked to the stand). The route to cycle parking from street level should be step-free (e.g. at the entrance to a building or accessible by a ramp or lift from street level that can accommodate a bike).
- 3.32. The appellant has not provided specific details of the cycle parking (e.g. details of the type of stand that would be used etc.), other than stating that it could be accommodated in the 'Study' room. Cycle parking within the 'Study' is not likely to comply with CPG7 guidance as there would not be level access. Nevertheless, the constraints of the building are recognised and the provision of cycle parking in some form is welcomed. As such, if the Inspector is minded to allow the appeal, a suitable planning condition is suggested to ensure that full details of cycle parking are submitted to and approved in writing by the Council prior to the commencement of development.

Conclusion

- 3.33. Based on the information set out above, and having taken account of all the additional evidence and arguments made, the proposal is considered to be contrary to Policies CS5 (Managing the impact of growth and development), CS6 (Providing quality homes), CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and Policies DP24 (Securing high quality design), DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.
- 3.34. The proposal is also contrary to Policies H6 (Housing choice and mix), A1 (Managing the impact of development), D1 (Design) of the Camden Local Plan Submission Draft 2016.
- 3.35. The information submitted by the appellant in support of the appeal does not fully overcome or address the Council's concerns. The proposal presents no benefits that would outweigh the harm identified.
- 3.36. For these reasons the Inspector is respectfully requested to dismiss the appeal. However, should the Inspector be minded to approve the appeal, suggested conditions are included in Appendix A and suggested S106 heads

of terms are set out in Appendix B with full justification regarding their necessity.

- 3.37. If any further clarification of the appeal submission is required please do not hesitate to contact Kate Henry on the above direct dial number or email address.

Yours sincerely,

Kate Henry
Senior Planning Officer
Regeneration and Planning
Supporting Communities

APPENDIX A – Suggested planning 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 The development hereby permitted shall be carried out in accordance with the following approved plans: A-100; A-101; A-102; A-103; A-104; A-200; A-201; A-202; and A-203.

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

- 3 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 and Policy D1 of the Camden Local Plan Submission Draft 2016.

- 4 Prior to commencement of the development, details shall be submitted to and approved in writing by the Council, of an enhanced sound insulation value $D_{nT,w}$ and $L'_{nT,w}$ of at least 5dB above the Building Regulations value, for the floor/ceiling /wall structures separating different types of rooms/ uses in adjoining dwellings, namely [eg. living room and kitchen above bedroom of separate dwelling]. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies and Policy A4 of the Camden Local Plan Submission Draft 2016.

- 5 The development hereby approved shall achieve a maximum internal water use of 110litres/person/day. The dwelling/s shall not be occupied until the Building Regulation optional requirement has been complied with.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with policy CS13 of the London Borough of Camden Local Development Framework Core Strategy and Policies DP22 and DP23 of the London Borough of Camden Local Development Framework Development Policies and Policy CC3 of the Camden Local Plan Submission Draft 2016.

6 Before the development commences, details of secure and covered cycle storage for the following shall be submitted to and approved by the local planning authority:

- 3 long-stay spaces

The approved facilities shall thereafter be provided in their entirety prior to the first occupation of any of the new units, and permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 of the London Borough of Camden Local Development Framework Development Policies and Policy T1 of the Camden Local Plan Submission Draft 2016.

APPENDIX B – Suggested S106 heads of terms and justification

1. Car-free development

Justification

The fourth reason for refusal could be addressed by an appropriate section 106 planning obligation. The Council will send a draft copy of the legal agreement to the appellant and also to PINS. However, in the event that agreement cannot be reached, the Council would like to 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 requires 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).

The Council would like to secure the additional dwelling as 'car-free' (i.e. future occupiers would not be able to apply to the Council for a parking permit) in order to facilitate sustainability and to help to promote alternative, more sustainable methods of transport. The application site has a Public Transport Accessibility Level (PTAL) of 5, which is very high, and is within the East Kentish Town Controlled Parking Zone (CA-M). Policy DP18 expects new development to provide the minimum necessary car parking provision; the Council generally expects development to be car-free in areas within CPZ that are easily accessible by public transport.

A planning obligation is considered the most appropriate mechanism for securing the development as car-free as the level of control required is considered to go beyond the remit of a planning condition. Instead, it relates to controls that are outside of the development site and there is an ongoing requirement for the development to remain car-free.

Section 106 legal agreements are 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 purchase 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.

Furthermore, 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.

CIL compliance

The car-free requirement complies with the CIL Regulations insofar as it is necessary to make the development acceptable in planning terms (i.e. it would mitigate the impact on parking stress and congestion in the surrounding area); it is directly related to the development (i.e. the provision of an additional dwelling); and it is fairly and reasonably related in scale and kind to the development (i.e. it relates to parking provision for the site and the impact on the local highway network).