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# Appeal Decision

Site visit made on 25 April 2017

by **Daniel Hartley BA Hons MTP MBA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 04 May 2017

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**Appeal Ref: APP/X5210/W/17/3167971**

**225 Kentish Town Road, Camden, London NW5 2JU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Creat REIT Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref 2016/0756/P, dated 10 February 2015, was refused by notice dated 26 July 2016.
  - The development proposed is the erection of a 4 storey extension (including mansard roof) above the existing ground floor commercial unit (following substantial demolition of the existing building) and change of use of the building above ground floor level from ancillary retail (Class A1) to residential (Class C3) to provide 2 x 1 bedroom and 1 x 2 bedroom duplex flat.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. In its appeal statement the Council has referred to the preparation of the Camden Local Plan (LP) which when adopted will replace the London Borough of Camden Core Strategy 2010 (CS) and the adopted London Borough of Camden Local Development Framework Development Policies 2010 (DP).
3. The LP has been the subject of an Examination and the Inspector's report is anticipated shortly. The Council have confirmed that further consultation on the proposed modifications to the Submission Draft Local Plan ended on 13 March 2017. Whilst the LP has not yet been adopted, it has reached an advanced stage and therefore the policies within it should be afforded considerable weight in decision making terms. The Council has provided me with copies of Policies H1 (Maximising housing supply), H6 (Housing choice and mix), A1 (Managing the impact of development), D1 (Design), T1 (Prioritising walking, cycling and public transport) and T2 (Parking and car free development) of the LP. I have taken these policies into account as part of the determination of this appeal.

## Main Issues

4. The main issues are the effect of the proposal upon (i) the character and appearance of the area; (ii) the living conditions of the occupiers of No 1A Anglers Lane in terms of outlook and privacy; (iii) on-street car parking and (iv) highway safety and traffic movements at construction stage.
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## **Reasons**

### *Site and proposal*

5. The appeal site relates to a multi-storey mid terraced building located within a busy town centre.
6. It is proposed to erect a new four storey development above the existing ground floor commercial premises (include a mansard roof) following substantial demolition of the existing building. The development would include the formation of 2 x 1 bedroom flats on the first and second floors and a 1 x 2 bedroom duplex flat on the third and fourth floor. The upper floors of the existing building are currently not in use, but it is understood that they were previously used in connection with retail use of the building.

### *Character and appearance*

7. The appeal building is located within Kentish Town Centre and it is positioned within a terrace of buildings which differ in terms of their height and use of materials. Commercial uses (including associated signage) are mainly confined to the ground floors and the upper floors of the buildings have simpler façades. Whilst not all of the windows are the same within Kentish Town Road (and the appeal terrace), in general terms they are tall and follow a regular pattern within each of the properties.
8. The proposal would increase the height of the existing building. This would not in itself be unacceptable given the varied heights of buildings within the existing terrace of properties. The proposal would result in a staggered / decreasing roof line to the end property in the terrace and hence the development would not appear dominant in the street-scene. I am satisfied that the use of a mansard roof, and the resultant height of the building, would not be unacceptable in terms of its overall effect when viewed from Kentish Town Road. Notwithstanding this view, when considered as a whole the proposed windows would appear very small when compared to the larger and more imposing windows which mainly appear on the other properties in the street, and in particular within the immediate terrace. I accept that the windows would be positioned in a regular and vertical manner, but when viewed against the neighbouring buildings they would appear compressed and very small. In this case, I consider that an opportunity has been missed to better reflect and align with the overall proportions of the windows which exist in the locality and particularly within the neighbouring properties.
9. For the reasons outlined above, I conclude that when considered as a whole the proposal would cause significant harm to the character and appearance of the area. Therefore, the proposal would not accord with the design aims of Policy CS14 of the CS; Policy DP24 of the DP and Policies H6, A1 and D1 of the LP. I do not consider that Policy DP30 is strictly relevant to this proposal as it relates to shop fronts. The appeal proposal does not relate to the ground floor which has a shop front which has been approved by means of a separate planning permission.

### *Living conditions*

10. The rear extension would be positioned at a distance of about 4.1 metres from the rear window of No 1A Anglers Lane. However, most of this window is already obscured from view by means of a wooden privacy screen. The

appellant has provided a drawing of such a privacy screen and says that this was approved as part of the planning permission for the building. The Council has confirmed that this is the case. The Council commented, in its delegated report, that the affected window serves a habitable room. The Council has since clarified that it has "*no sound evidence that the affected room is habitable in planning terms*". The appellant has stated that the approved drawings for No 1A Anglers Lane show that this small room (about 1.7 m x 1.7 m) would be used for storage purposes. I have seen these plans and agree that this was the case.

11. Whilst I acknowledge that the rear extension would be close to the rear window of No 1A Anglers Lane, taking into account the privacy screen, the size and intended use of the room and the fact that no objection to the proposal has been received from the occupiers of this property, I do not consider that the proposal would have an overbearing impact upon the occupiers of No 1A Anglers Lane. I accept that there is some uncertainty surrounding whether or not the room at No 1A is habitable, but for the aforementioned reasons I do not consider that the proposal would give rise to an unacceptable loss of outlook.
12. I have considered the appellant's sunlight and daylight assessment and also conclude that the proposal would not have a materially adverse impact on the living conditions of the occupiers of No 1A Anglers Lane in terms of loss of light.
13. The appellant has confirmed that a rear flat roof would not be used as an outside terrace and that they would accept a planning condition which only permitted use for maintenance purposes. This would limit any noise and disturbance effects arising out of use of the roof as private amenity space. It would also address any concerns that the Council has about loss of privacy for the occupiers of No 1A Anglers Lane, although overlooking would be limited given the existence of the wooden privacy screen.
14. For the reasons outlined above, and subject to the imposition of a planning condition, the proposal would not have a significantly detrimental impact upon the living conditions of the occupiers of No 1A Anglers Lane in respect of outlook, privacy or any other matter. Therefore, the proposal would accord with the amenity aims of Policies CS5 of the CS, Policy DP26 of the DP and Policy A1 of the LP.

#### *On-street car parking*

15. Policy DP18 of the DP states that "*developments in areas of on-street car parking stress should be 'car capped'*". The site falls within the West Kentish Town (Outer) Controlled Parking zone. There are parking pressures in the area and the policy states that for new developments in such areas car parking permits will not be issued and a legal agreement would be required "*to ensure that future occupants are aware they are not entitled to on-street car parking permits*". The area includes good public transport provision and so there would be sustainable transport choices available for the occupiers of the proposed flats.
16. The appellant has not submitted a signed and dated planning obligation which would ensure that the development was "car free" and that the occupiers of the proposed flats would not be allowed to apply for a car parking permit. The appellant proposes a sufficient number of cycle stands taking into account the

constraints of the appeal site. However, there is an absence of any on-site car parking and there are car parking pressures in the locality. It would therefore be necessary to complete a planning obligation which would ensure that the development was "car free".

17. For the above reasons, I conclude that the proposal would result in parking congestion in the locality and that it would not accord with the car parking and sustainable transport aims of Policies CS11 and CS19 of the CS; Policy DP18 of the DP and Policy T2 of the LP. I have not pursued a request for a planning obligation any further as even if this had have been provided it would not have overcome my concerns relating to the effect of the proposal upon the character and appearance of the area.

#### *Construction - highway safety and traffic movements*

18. Given the scale of the proposed development, its town centre location and its proximity to a number of other properties it would be necessary to ensure that there were some controls in place in respect of construction activity. This would include matters relating to construction vehicle movements, hours of construction, measures to ensure that highway safety was not compromised and dealing with potential odour, noise and dust issues.
19. The Council states that construction management is a matter which needs to be controlled by way of a completed planning obligation. However, I am satisfied that this is a matter that could be controlled by way of a planning condition.
20. I am satisfied that the submission and implementation of a construction management plan could be dealt with by planning condition. Therefore, in respect of this issue the proposal would be capable of according with the amenity, highway safety and traffic management aims of Policies CS5, CS11 and CS19 of the CS, Policies DP20 and DP26 of the DP and Policy A1 of the LP.

#### **Other Matters**

21. I have taken into account comments made by other interested parties including a supportive comment. Some of the comments made have been addressed in the reasoning above. Concerns raised about floor to ceiling heights have been addressed by way of the submission of amended plans. Cycle storage facilities would be provided and representations made about the shop front are not relevant to the determination of this appeal. Had the appeal been allowed, it would have been possible to deal with waste and recycling by way of the imposition of a planning condition.
22. I acknowledge that the proposal would boost the supply the housing in the area. However, neither this, nor the other matters raised, outweighs my overall conclusion on the main issues.

#### **Conclusion**

23. Subject to the imposition of a planning condition the proposal would not cause significant harm at construction stage. Furthermore, and subject to a planning condition, the proposal would not have a detrimental impact upon the living conditions of the occupiers of surrounding residential properties (including No 1A Anglers Lane) in respect of light, outlook and privacy.

24. Notwithstanding the above, the proposal would cause significant harm to the character and appearance of the area. Furthermore, the appellant has not completed a signed and dated planning obligation and hence the proposal would not be "car free". Therefore, the development would result in on-street car parking pressure and lead to traffic congestion issues in the locality. These are matters of overriding concern. Therefore, I conclude that the proposal would not accord with the development plan for the area and the appeal should therefore be dismissed.

*Daniel Hartley*

INSPECTOR