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# Appeal Decision

Site visit made on 21 February 2018

**by Martin Whitehead LLB BSc(Hons) CEng MICE**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 March 2018**

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**Appeal Ref: APP/X5210/W/17/3179742**  
**11-12 Grenville Street, London WC1N 1LZ**

- 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 Mr Jeff Field, Jones Lang LaSalle Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref 2016/4372/P, dated 5 August 2016, was refused by notice dated 11 January 2017.
  - The development proposed is '*change of use of upper floor offices (B1) to residential (C3) use to provide 5 x residential units (3 x 1 bed and 2 x 2 bed), demolition of existing rear garage and erection of a replacement 2 storey 2 bed mews dwelling with basement extension, consolidation of the existing ground floor retail (A1) and cafe (A3) units to provide a replacement retail/restaurant (A1/A3) unit, external alterations to the main elevation, mansard roof extension with parapets/chimneys and dormer windows, replacement double glazed sash windows, replacement shopfront, alterations to ground floor entrances and a 1st to 3rd floor rear infill extension with new window openings*'.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The appellant has submitted signed Planning Obligations by Undertakings pursuant to Section 106 of the Act (Undertakings), dated 14 December 2017, and an updated Basement Impact Assessment (BIA). The Council has subsequently accepted that the BIA addresses its 4th reason for refusal but has identified deficiencies in the Undertakings. Therefore, I consider that the remaining main issues, based on the reasons for refusal, are:
  - i. the effect of the proposal on economic activity in Camden, with particular regard to the provision of employment floorspace;
  - ii. the effect of the proposed mansard roof extension and mews extension on the character and appearance of the existing building and Bloomsbury Conservation Area (CA);
  - iii. whether the proposed dwellings would provide acceptable living conditions for future occupants;
  - iv. the effect of the proposal on parking and congestion on the surrounding roads and on the use of sustainable means of transport, with particular regard to the use of private cars, bicycles and public transport;
  - v. the effect of the proposal on pedestrian and highway safety;
  - vi. the effect of the proposal on residential amenity;

- vii. the effect of the proposal on the environment, with particular regard to the provision of a sustainability and energy efficiency/renewable energy plan; and
- viii. the effect of the proposal on the provision of affordable housing in the Borough.

### **Reasons**

- 3. Since the refusal of planning permission the Council has adopted The Camden Local Plan (LP) on 3 July 2017. This new development plan document has superseded the Core Strategy (2010) and Camden Development Policies (2010) documents as the basis for planning decisions and future development in the Borough. I have therefore considered the proposed development in relation to the most up-to-date development plan, which includes the recent LP.
- 4. The Council has identified that the submitted Undertakings have not been signed by all the parties that have an interest in the land. The appellant has not provided any evidence to show that this is not the case. As such, the Undertakings are not enforceable and I have given them no weight in my determination of this appeal.

### **Employment**

- 5. The building is currently vacant, with the exception of a café/restaurant on part of the ground floor, and the appellant has claimed that this has been the case since 2001, but the Council has indicated that it has been since 2005. Either way, much of the building has not been in productive use for a significant period of time.
- 6. The appellant has submitted a financial viability assessment that demonstrates through development appraisals of 3 options, one of which is the appeal proposal, that the continued use of the appeal building for employment would not be viable. The Council has questioned this evidence on the basis of high build costs and the lack of justification for all the works being necessary to bring the building back into employment use.
- 7. Whilst the Council has suggested that the viability assessment has not been independently assessed, it has not provided any alternative assessments to show anything different. The Council has pointed out that the other appeal examples provided by the appellant in support of this appeal involved some marketing of the buildings for employment re-use, which had been given weight by the Inspector and is not provided for in the current appeal. However, the appellant has provided a Marketing Statement by WSP. This Statement identifies that reputable local agents had been appointed in the past, the latest of which recommended that, due to the seriously dilapidated nature of the premises, they are not fit for purpose and are totally unsuitable for letting as offices in their present condition, which I observed at my site visit to be poor. Therefore, I find that the limited marketing since September 2014 has been justified and that the appellant has demonstrated that marketing had been unsuccessfully carried out before that for a significant period of time.
- 8. For the reasons given above, I find that the proposal would not have an adverse effect on the provision of employment floorspace. It would therefore not harm the economic activity in Camden. It would accord with LP Policy E1,

as it would not adversely affect the Borough's economy because it would bring back into use a site that has not been used for employment for a long time; and LP Policy E2, as the appellant has demonstrated that the building is no longer suitable for its existing business use and it has fully explored the retention of the building for business use over a long period of time.

### ***Character and Appearance***

9. The appeal building consists of a four storey, 5 bay wide Georgian terrace property on the west side of Grenville Road in Bloomsbury CA. It bridges over the entrance to Colonnade, which is a narrow street with mews style terraced properties both sides. The building has single storey additions to its rear on both sides of the entrance to Colonnade; one consisting of a garage and the other a storage area. Although they do not provide a positive contribution to the CA, these low additions are relatively small and include materials that match other buildings in the area. Therefore, whilst they are in poor condition, they do not have a significant negative impact on the character and appearance of the area.
10. Bloomsbury Conservation Area Appraisal and Management Strategy (BCAAMS) identifies the appeal property with the rest of the properties on that side of Grenville Street as making a positive contribution to the appearance and character of the CA. The appeal building is prominent in the street scene, and its roofline is visible from the surrounding area.
11. The proposed mansard roof would be immediately behind the parapet lines of the building, but the parapet and roofline of the row of buildings on that side of the road do not have any mansard roof additions, being largely unaltered. Whilst there is a variation of height in the buildings, with the adjacent Downing Court being taller, the mansard roof extension would be an incongruous addition to the roofline. As such, it would cause significant harm to the character and appearance of the building and the CA and would fail to accord with section 5 of Camden Planning Guidance (CPG) 1, as mansard roofs are not established roof forms in the group of buildings or surrounding townscape.
12. BCAAMS identifies residential mews as important to the character of the CA. The proposed mews house extension would replace the existing garage at the rear that faces onto Colonnade. It would have a flat roof and would be smaller than most of the other buildings along Colonnade, which generally have pitched roofs. Its design, including the overhanging first floor, vertically proportioned windows and its doors would fail to reflect the character of the mews style terraced buildings along Colonnade. Although it would appear subservient to 11-12 Grenville Street, it would be larger and more prominent in the street scene than the garage building that it would replace and would stand out as being out of keeping with the other buildings fronting Colonnade.
13. Based on the above, I conclude on this main issue that the proposed mansard roof and the proposed mews extension would both fail to preserve the character and appearance of the CA. The proposal would be contrary to LP policies D1, regarding high quality design, and D2, regarding heritage assets. I am satisfied that it would lead to less than substantial harm to the significance of the heritage asset. I have therefore weighed this harm against the public benefits in the planning balance, in accordance with paragraph 134 of the National Planning Policy Framework (Framework).

### ***Living Conditions***

14. Following the application, the appellant has submitted amended plans and a letter regarding daylight and sunlight. I have taken these into account in my determination of this appeal. In this respect, the proposed habitable space in the basement of the two-storey mews house, with an internal light well window in the floor of the ground floor living room of unit 1, would receive low levels of secondary light and would provide a poor outlook and inadequate ventilation. Also, the proposed unit within the mansard roofspace would not have a floor to ceiling height of 2.3m over 50% of the room. These factors would make the proposal contrary to the guidance in CPG2 and would result in the provision of inadequate living conditions for future occupiers, which would fail to accord with LP Policy H6 and Policy 7.6 of the London Plan.

### ***Parking and Congestion and Sustainable Means of Transport***

15. The Council has suggested that the site falls within the Central London Area and within the Central Activities Zone. The area is also subject to a high level of congestion and parking stress. The Undertakings include a planning obligation to ensure that new occupants of the development would be informed by the owner of the Council's policy to control the issuing of parking permits. However, the Undertakings only refer to the use of 'reasonable endeavours' to fulfil the obligation and it is not tied to the land. As such, it is merely a personal undertaking, it is not capable of being registered as a local charge and would not run with the land. I have therefore, given this obligation no weight.
16. The plans indicate that vertical cycle parking stands would be provided, which would be contrary to guidance in CPG7. However, I am satisfied that this would be overcome by a suitably worded planning condition to secure the provision of appropriate horizontal cycle parking.
17. Although a planning condition would ensure that the proposal would provide adequate parking for bicycles, in the absence of any enforceable control over the use and/or ownership of private cars by future occupants, it would not provide sufficient measures to encourage car free lifestyles, promote sustainable ways of travelling, including the use of public transport, and help to reduce the impact of traffic. As such, the proposal would have an adverse effect on parking and congestion and the use of sustainable means of transport and would be contrary to LP Policy T2, which seeks to limit the availability of parking and requires new developments to be car-free.

### ***Pedestrian and Highway Safety***

18. The impact as a result of causing an obstruction of the highway due to the outward opening refuse and cycle storage doors being left open by residents could be overcome by a planning condition requiring sliding doors. However, the appellant has not disputed that the proposed works, which would include excavation for a basement, would be likely to cause damage to the public highway directly adjacent to the site. A highways contribution therefore would be required towards repairs that would need to be carried out on the highway as a result of damage due to the completion of the development.
19. The obligation to secure funding for highway works is deficient and therefore the necessary highway works to be undertaken via a section 278 agreement would not be secured and the proposal would harm the transport infrastructure in the

area. Although the Undertakings include a legal agreement that satisfies the Council to secure the Approval in Principle (AiP) required to demonstrate that the proposed basement would not impact on the adjacent public highway, I have given them no weight as they have not been signed by all the relevant parties.

20. The absence of a means of funding the highway works or a legal agreement to secure the necessary AiP for the basement works could well result in significant harm to pedestrian and highway safety. The proposal would fail to accord with LP Policy A1, as there is no valid planning obligation to ensure that any construction damage to transport infrastructure would be repaired and any affected transport network links and road and footway surfaces would be reinstated.

### ***Residential Amenity***

21. LP Policy A1 seeks to protect the quality of life of occupiers and prevent unacceptable harm to amenity and refers to the need to secure a Construction Management Plan (CMP) in order to achieve this aim. The development would involve the excavation of a basement and significant other construction works in a constrained area. As such, construction impacts would need to be mitigated to avoid unacceptable harm to residential amenity. Securing a CMP through a planning obligation rather than a condition would address the need to work on the highway and on land outside the site boundary. The appellant has not disagreed with the Council in this respect. He has submitted a draft CMP and has allowed in the Undertakings for contributions towards a CMP. However, the Undertakings do not secure the preparation and submission of a CMP for approval or compliance with the CMP. Furthermore, I have attached no weight to the Undertakings. Therefore, I find that the proposal would have an adverse effect on residential amenity and would fail to accord with LP Policy A1 in this respect.

### ***The Environment***

22. An Energy and Sustainability Statement has been submitted which demonstrates a 70.5% reduction in CO<sub>2</sub> beyond the existing building baseline and a BREEAM Excellent standard. A Sustainability Plan clause requiring the stated BREEAM compliance and Energy Efficiency/Renewable Energy plan to achieve the stated carbon reduction has not been secured in the Undertakings, to which I have given no weight. Therefore, in the absence of an acceptable means of securing a Sustainability Plan, there is nothing in place to ensure that the proposal would not have an adverse effect on the environment. As such, the proposal would fail to accord with LP policies CC1 and CC2, regarding climate change, and London Plan Policy 5.2, which expects new development to follow the hierarchy of energy efficiency, decentralised energy and renewable energy technologies to achieve the fullest contribution to CO<sub>2</sub> reduction.

### ***Affordable Housing***

23. In terms of the provision of affordable housing, I am satisfied that the LP Policy H4 requirement should apply to the development. The LP has been through examination in 2016/2017 and was found to be sound by the Inspector in light of the Written Ministerial Statement issued by the Minister for Communities and Local Government on the 28 November 2014. That Inspector's report in paragraph 64 notes that there are local circumstances in the case of Camden which, taken as a whole, fully justify a lower affordable housing threshold and has suggested a threshold of 1 unit. Also, it indicates that the Greater London Authority supports this approach.

24. The appellant has not provided sufficient justification to avoid making a contribution towards affordable housing, even though the development would be for less than 10 dwellings. I have attached no weight to the Undertaking to secure an affordable housing contribution. Therefore, in the absence of any acceptable contribution or justifiable reasons why such a contribution should not be made, I conclude on this main issue that the proposal would harm the provision of affordable housing in the Borough and would fail to accord with LP Policy H4 in this respect.

### **Planning Balance and Conclusions**

25. The benefits of the proposed development include bringing back into productive use a long term vacant building and the provision of much needed housing in a sustainable location, but there is nothing in place to secure the required contribution towards affordable housing. In terms of paragraph 134 of the Framework, these benefits would be insufficient to outweigh the less than substantial harm that I have found that the proposal would cause to the significance of Bloomsbury CA.

26. I have found in favour of the proposal with regard to its effect on economic activity in Camden. However, I have also found that it would fail to preserve the character and appearance of a CA; would cause harm to parking, congestion, the use of sustainable means of transport, pedestrian and highway safety, residential amenity, the environment and the provision of affordable housing in the Borough; and would not provide acceptable living conditions for future occupants of the proposed dwellings. In addition, it would fail to accord with the development plan as a whole and would not represent sustainable development. The appellant has not put forward other material considerations that would offer sufficient benefits to outweigh this harm. Therefore, having regard to all relevant matters raised, I conclude that the appeal should fail.

*M J Whitehead*

INSPECTOR