



FULL STATEMENT OF CASE

APPEAL BY:

Mr. Marc Gershon

AGAINST THE LONDON BOROUGH OF CAMDEN'S REFUSAL TO GRANT PLANNING PERMISSION FOR:

Conversion of residential building from 2x self-contained flats (1 x 1 bed and 1 x 6 bed) to 4x self-contained flats (1 x 3 bed, 1 x 2 bed and 2 x 1 bed) including a rear infill extension at the lower ground floor level with terrace above, mansard roof extension, alterations to windows, single storey rear outbuilding and alterations to the front garden including part-excavation of land for the provision of cycle and bin storage (Class C3 use).

AT

78 Malden Road, London, NW5 4DA

The London Borough of Camden's reference: 2017/4992/P

May 2018

1.0 INTRODUCTION

1.1 This statement has been prepared by Projection Architects Ltd on behalf of Mr. Marc Gershon in support of the appeal lodged against the lack of decision (2 months delay) and possible refusal of the planning application 2017/4992/P.

1.2 To recap, No. 78 Malden Road originally comprised a single dwelling house but currently it is divided into two flats (Use Class C3). To increase the number of self-contained units from 2 to 4, the current owner proposes to extend the ground floor to the side and the roof with a mansard type extension as well as a new outbuilding at the end of the rear garden.

1.3 The application has not been decided although the decision was supposed to be received the 14/03/2018, as it is shown below in the email sent by the planning officer:

78 Malden Road 2017/4992/NEW

Lester, Robert <Robert.Lester@camden.gov.uk>
To: Projection Architects <architect@projectionarchitects.com>

26 January 2018 at 10:22

Good morning Jorge -

I have now validated this application. The statutory deadline is the 14/03/2018 and the estimated consultation end date is the 23/02/2018.

1.4 No extension of time has been asked, and therefore there is not an official document explaining the reasons for refusal. However, we were told that the application was going to be refused by the following reasons (explained in an email sent by the planning officer):

“The present reasons for refusal would be the mansard roof extension, substandard internal flat sizes, outbuilding together with standard reasons in the circumstances on inadequate basement information and the need for a s.106 for car free housing and a basement highways approval in principle.”

Each of those possible reasons for refusal will be explained in this same document.

1.5 For clarification, a previous planning application was submitted to apply for the increase of the number of units (from 2 to 5) with a similar proposal to the recent application 2017/4992/P. An assessment was carried out by the planning officer and comments were sent via email regarding the extensions and other matters. Detailed information about those comments is provided in this same document. Furthermore, no objections were raised by any local resident or by any statutory consultees.

2.0 THE SITE & THE DEVELOPMENT

2.1 The application site is a three-storey property (four storey at the rear due to the lower ground floor) comprising one residential unit at lower ground level and a second residential unit on upper ground, first and second levels. The site fronts Malden Road which is mainly a residential street with several flat conversions and multiple mansard roof extensions within the same terrace and proximities. The proposal lies within West Kentish Town Conservation Area (WKTCA) and the building is not listed.



A view of the front of the existing property

2.2 To recap, No. 78 comprised 2 residential units many years before the current owner acquired it. The appeal application sought planning permission for the change from 2 units to 4 units in the same building. Relevant Planning history can be found in the submitted Design and Access Statement.

2.3 Designations:

The site has no designations under the London Plan 2011 and Camden Development Management Policies.

3.0 RELEVANT PLANNING POLICIES

3.1 These are the relevant planning policies to this case:

- National Guidance:
National Planning Policy Framework (2012) (the Framework)

- Development Plan:

The Development Plan is comprised of the London Plan, Core Strategy and Development Policies:

- The London Plan 2011 - Spatial Development Strategy for Greater London:
- Camden Core Strategy 2010 (the Core Strategy)
- London Borough of Camden Development Policies document 2011 (CDP)

Other relevant documents:

- Camden Planning Guidance. CPG 1 Design 2011. Updated 2018.
- Lifetime Homes Design Guide (2011)

3.2. Again, we emphasize that no decision notice has been received although the statutory deadline was the 14/03/2018, therefore no mention to planning policies has been received. There has been a delay in the council procedure of more than 2 months without justified reason, which has carried important economic consequences to the property owner.

3.3 The following paragraphs provide a brief summary of the relevant policies and guidance outlined above.

3.3.1. The National Planning Policy Framework

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. The following sections and paragraphs make reference to the parts of the NPPF which are directly relevant to this appeal.

- Achieving Sustainable Development

Paragraph 7 of the NPPF sets out that there are three dimensions to sustainable development; economic, social and environmental. In terms of an economic role, the NPPF states that planning should contribute to building a strong, responsive and competitive economy by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation.

- Presumption in Favour of Sustainable Development

Paragraph 14 of the NPPF sets out that this document is a presumption in favour of sustainable development, which for plan-making means local planning authorities should positively seek opportunities to meet the development needs of their area;

In the same way, the NPPF approaches decision-taking in paragraph 187 by stating that local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

3.3.2. Camden Core Strategy

CS14 Promoting high quality places and conserving our heritage.

Section 14.2 of Policy CS14 sets out that the “overall strategy is to sustainably manage growth in Camden, so it meets our needs for homes, jobs and services in a way that conserves and enhances the features that make the borough such an attractive place to live, work and visit. Policy CS14 plays a key part in achieving this by setting out our approach to conserving and, where possible, enhancing our heritage and valued places, and to ensuring that development is of the highest standard and reflects, and where possible improves, its local area.”

Section 14.3, in relation to *Excellence in design*, states that “The design of the places and buildings that make up our local environment affects us all and our quality of life. High quality design is visually interesting and attractive, but it is not just about what things look like. Good design makes places that put people first, are welcoming, feel safe and are enjoyable and easy to use for everyone, whether they are living in, working in, or just passing through the borough.

Also, section 14.4 refers to *Development schemes* saying they “should improve the quality of buildings, landscaping and the street environment and, through this, improve the experience of the borough for residents and visitors. The Council will therefore insist on high quality design throughout the borough.

3.3.3. The Development Management Document

Policy DP24 refers to Core Strategy Policy CS14 (named above) in relation to securing high quality design, and says it seeks to ensure that Camden’s places and buildings are attractive, safe, healthy and easy to use and requiring development to be of the highest standard of design that respects local context and character. Also, DP24 confirms the Council will require all developments, including alterations and extensions to existing buildings, to be of the highest standard

In its point 24.9, this Policy states that “the retention and adaptation of existing buildings will be encouraged”, always with the use of durable, natural, locally sourced materials, ‘soft’ construction methods, good room proportions, natural light and ventilation and ease of alteration.

Policy DP25 refers to Conserving Camden’s heritage.

This policy in its point A states that: “The Council will take account of conservation area statements, appraisals and management plans when assessing applications within conservation areas”

4.0 THE APPELLANT'S CASE

4.1 INTRODUCTION

The Appellant's case will focus on an email sent by the planning officer, where he said the possible reasons for refusal they would provide, given the fact that no decision notice has been received since the statutory deadline (which was more than 2 months ago) in relation to the Planning Application with reference 2017/4992/P (Address 78 Malden Road NW5 4DA) for the:

"Conversion of residential building from 2x self-contained flats (1 x 1 bed and 1 x 6 bed) to 4x self-contained flats (1 x 3 bed, 1 x 2 bed and 2 x 1 bed) including a rear infill extension at the lower ground floor level with terrace above, mansard roof extension, alterations to windows, single storey rear outbuilding and alterations to the front garden including part-excavation of land for the provision of cycle and bin storage (Class C3 use)."

The central concern of the possible reasons for refusal provided (unofficially, in an email) by the council could be summarized in the following four points:

"The present reasons for refusal would be:

- *the mansard roof extension,*
- *substandard internal flat sizes,*
- *outbuilding together with standard reasons in the circumstances on inadequate basement information*
- *and the need for a s.106 for car free housing and a basement highways approval in principle."*

4.2 ASSESSMENT:



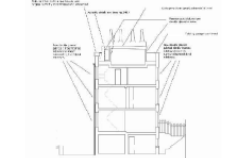
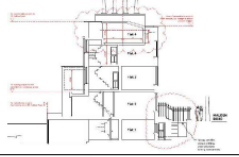

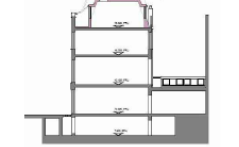
A) CHARACTER AND APPEARANCE:


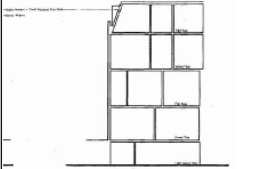

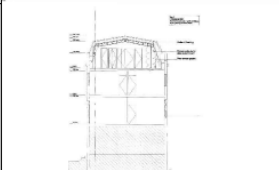
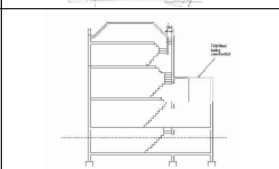

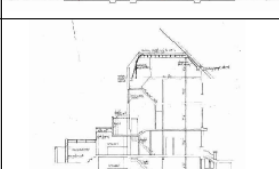
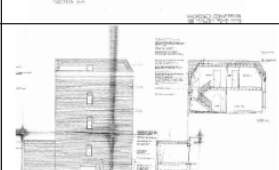

- *In relation to the possible reason for refusal "the mansard roof extension"*

No. 78 is a three-storey building (4 storey from the rear) comprising 2 self-contained units and consisting of brick elevations to front and rear, and a butterfly roof arrangement between chimney stacks. The rear elevation has an old existing extension along all its levels with an existing terrace on top. The building is situated in the West Kentish Town Conservation Area (WKTCA), which is primarily residential in character, generally consisting of 2 and 3 storey terraced Nineteenth Century housing of similar design to the appeal building. The front elevations to properties generally have a uniform appearance, including characteristic brick or stucco parapets largely concealing the roof profile from street level. In the case of No.78, it is an exposed-brick parapet, that originally was rendered and painted. This featured is proposed to be restored to enhance the original external appearance.

The proposed roof extension (mansard type) will be obscured at street level by the existing parapet. It is true that it would be visible from the upper storeys of the tall block of flats opposite to Malden Road, although it is noted that a number of other roof extensions in the terrace containing No. 78 which were either approved by the Council or on appeal, would also be visible.

Given this important fact, we have attached a list of 18 mansard roof extensions approved by the council or on appeal just in Malden Rd. See tables below:

ADDRESS	Application Ref. No.	Application Description	GRANTED DECISION DATE	DRAWING
48 Malden Road NW5 3HG	2011/0317/P	Conversion of dwelling house to 5 x self-contained flats (Class C3), (1 x 3 bed, 1 x 2 bed, 1 x 1 bed and 2 x studios) including <u>erection of a mansard roof extension</u> , two storey rear extension, installation of lightwell to front elevation and alterations to fenestration.	21-03-2011	
52 Malden Road NW5 3HG	37271	The erection of a <u>roof extension</u> to be used as a residential flat.	18-01-1984	
56 Malden Road NW5 3HG	8701333	Change of use to form 3 1-bedroom flats and a bed-sitting room flat including works of conversion with the erection of a <u>roof extension</u> and front stairwell as shown on drawing no. 56MR/2C revised on 8th November 1989 23rd February 22nd March 1990.	24-05-1990	No images available.
58 Malden Road NW5 3HG	2011/0317/P	Erection of a <u>roof extension</u> to provide additional residential accommodation as shown on drawing no.5 and as revised on 20th January 1988.	27-01-1988	No images available.
66 Malden Road NW5 4DA	2015/5794/P	<u>erection of mansard roof extension</u> with associated balustrade and acoustic screen and replacement of the first and second floor timber single glazed windows to the front and rear elevations with double glazed timber sash windows.	08-03-2016	
68 Malden Road NW5 4DA	2012/5890/P	Subdivision of existing vacant dwellinghouse (Class C3) into 2 x 1 bedroom flats and 2 x 2 bedroom flats and associated alterations comprising <u>extensions to the roof</u> , rear lower ground, ground and first floor levels and covered bicycle and waste storage area in front lightwell.	11-01-2013	
96 Malden Road NW5 4DA	PEX0100395	<u>Erection of a roof extension</u> , as shown by drawing numbers 2868/1 & 2868/2.	04-09-2001	
110 Malden Road NW5 4BY	8701361	Change of use and works of conversion to provide a two-bedroom maisonette and a one-bedroom flat including the <u>erection of a mansard roof</u> and a second storey rear extension as shown on drawing no.JN1/1 as revised.	23-08-1988	No images available.
112 Malden Road NW5 4BY	2016/6011/P	<u>Mansard roof extension</u> to provide additional living accommodation at third floor level for existing upper level flat; installation of first floor balcony at rear; alterations to openings; installation of pavement lights at front of building to serve existing underground vaults.	18-04-2017	

ADDRESS	Application Ref. No.	Application Description	GRANTED DECISION DATE	DRAWING
114 & 116 Malden Road. NW5 4BY	2013/0350/P	Erection of a mansard roof extension to numbers 114 and 116 Malden Road and change of use from 1 x 3 bed maisonette at 114 Malden Road and 1 x 2 bed maisonette at 116 Malden Road (Class C3) in the creation of 2 x one-bed and 2 x two-bed self-contained flats (Class C3) over first, second and third floor levels.	25-04-2013	
117 Malden Road NW5 4HS	P9601776R2	The erection of a mansard roof extension and alterations and the change of use of the public house to four self-contained flats. As shown on drawing numbers MA-0101a, 0102a, 0104a, 0103b, 0304B, and 0302B.	21-03-1997	
119 & 121 Malden Road. NW5 4HS	2014/4101/P	Conversion of 119 Malden Road (2x self contained flats) and 121 Malden Road (HMO bedsits) into 6x Self Contained Flats (1x3bed; 2x1bed & 3x2bed); additions and alterations to include mansard roof extensions, rear alterations and creation of front lightwells at both properties.	18-07-2016	
125 Malden Road NW5 4HS	PEX0200668	Addition of mansard roof extension with roof terrace at the rear, as shown on drawing numbers: Photomontage - View 1 (x2), 2 (x2), 3 (x2); Existing - 02, 03, 04, 05, 06, 07, 09; and Proposed - 10, 12, 100, 101, 102, 103, 104, 105, 106	07-01-2003	
127 Malden Road NW5 4HS	2013/4020/P	Erection of mansard roof extension and associated conversion of property from 2 units to 3 x 1 bedroom units and 1 x 2 bedroom unit (Class C3).	04-12-2013	
129 Malden Road NW5 4HS	2016/2220/P	The erection of a mansard roof extension, one to three storey rear extension, and associated external alterations associated with homeless support facility.	13-07-2016	
135 Malden Road NW5 4HS	14909	Conversion of 135 Malden Road, N.W.5, into three flats and one maisonette with the erection of a roof extension, a rear extension and a conservatory.	22-01-1973	
143 Malden Road NW5 4HS	CTP/F10/29/1/29749	Change of use of ground floor from shop to residential accommodation in conjunction with the formation of three flats and one maisonette, including works of conversion, the erection of an additional storey and the enlargement of the first floor rear addition.	07-02-1980	
175 Malden Road NW5 4HT	PE9900209	The erection of a roof extension. As shown on drawing No 9812/01 and 9812/201	13-05-1999	

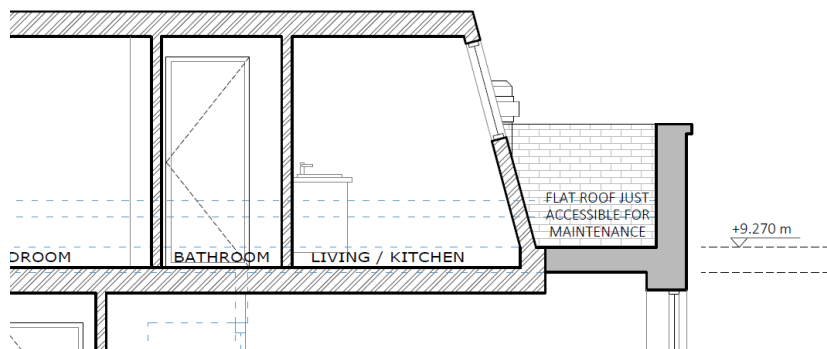
Even with these evidences, the council has insisted on the fact that most of them were old decisions and only 3 should be taken into consideration: Nos. 66, 68 & 94.

The reasoning for this was set by the former case officer in an email. It was stated that “3-4 buildings had their roofs altered out of the whole terrace between Rhyl Street and Queen’s Crescent. Those that have been altered are at no. 84 Malden Road (granted permission 1992) and nos. 92-94 (granted permission in 1927, 1985). The Council gives particular importance to the site located within the West Kentish Town Conservation Area which was established in 2005 and lists nos. 60-108 (evens) as making a positive contribution to the conservation area”.

We share this view, but it seems they have supported other developments in the street and not in No.78 for, from our point of view, not justified reasons. There is record of emails from the council describing the reasons why they do not accept this mansard roof extension, as we explain below:

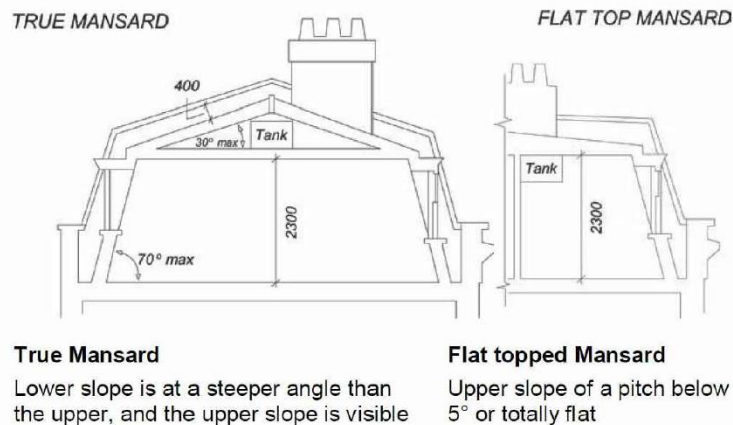
FIRST: They said “the roof extension at 66 is set back/modestly proportioned and was only approved because the previous refusal was allowed on appeal”

Our view is that the previous application submitted for No.78 (Withdrawn) showed a set-back mansard roof extension. See image below:

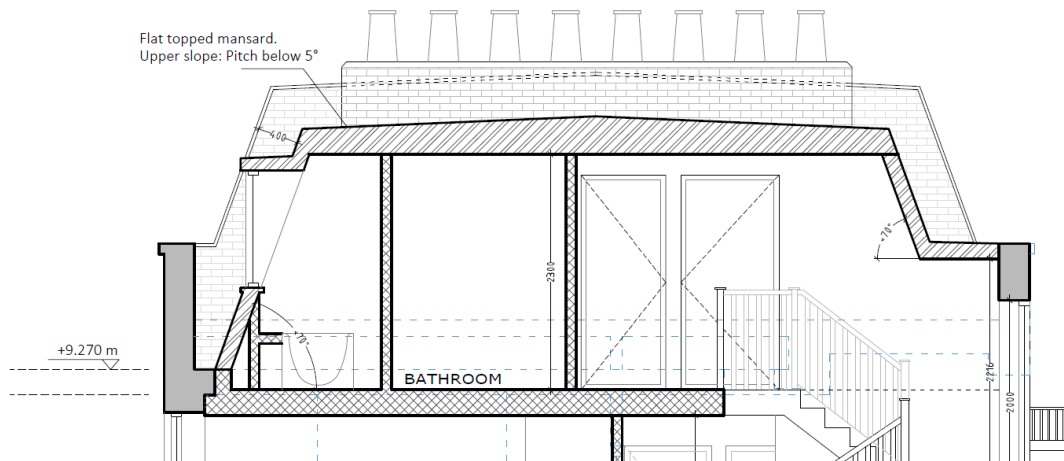


They advised it should follow the Council Planning Design Guidance for mansard roof extensions. See image below:

Camden Planning Guidance. Design. Roof, terraces and balconies. Figure 5.



For the following application (the refused application concerning to this appeal), the roof design was modified to follow in more detail the Camden Planning Guidance on its Design section (Fig. 5). See similarities between image below (proposal) and image above (council's recommendation).



The council does not consider No.66 example as acceptable as it was approved by appeal, although it is remarkable the extensive positive report the Inspector David Spencer, appointed by the Secretary of State for Communities and Local Government, wrote about it (i.e. about No.66).

SECOND: They said *“the roof extension at 68 is also set back behind the parapet and forms a half level with the top floor below”*.

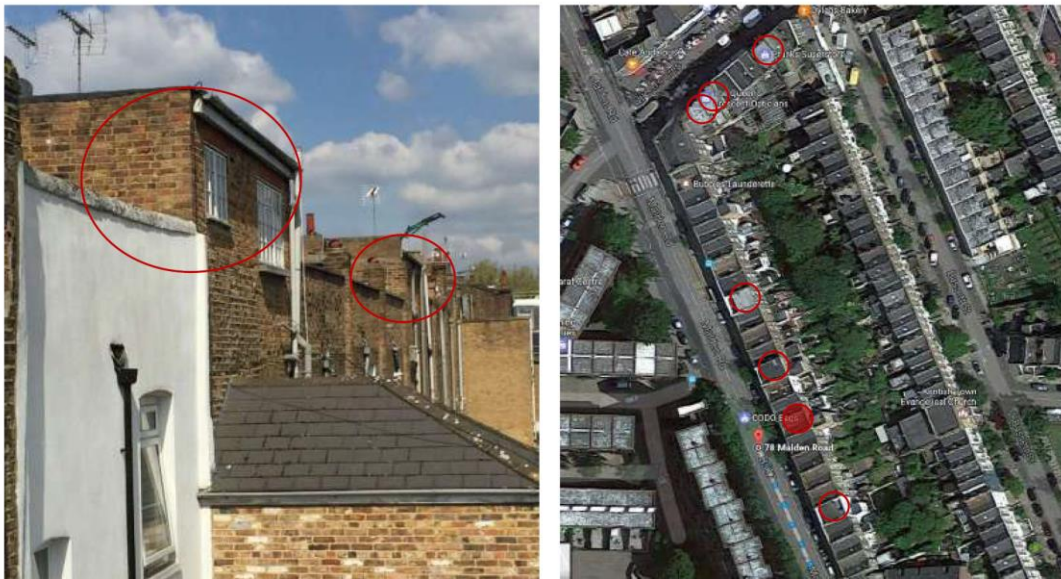
It is important to emphasize that the proposed mansard at No.78 has a lowered floor as well, and therefore matches that of No. 68 (APPROVED BY THE COUNCIL IN 2013). When the applicant asked about the reasonable height No.78 should have to match that of No.68 they did not specify it and they insisted they cannot take that project as a precedent either, although they approved it just 4 years ago (and it was not through an appeal to the Government).

It is obvious that if the difference between No.78 and the other examples in the area was just a matter of lowering slightly the whole mansard or recessing it around 1m more, the applicant would have understood it and therefore would have accepted amending the plans. Following the Procedural Guide for Planning appeals in its point 1.3.1 indicates that *“The local planning authority should have constructive discussions with the applicant and, if it has any concerns, give the applicant the opportunity to amend the application before it is decided. This should help to avoid the need to appeal”*. We assume that if it was the case, they could have allowed us lowering the ceiling 10cm more or recessing the mansard to match the approved at No. 68.

THIRD: They said *“the roof extension at no. 99 was granted in 2001 prior to the designation of this street as a conservation area. This would therefore not set a precedent for a roof extension at this site. The other examples are not on this terrace.”*

We understand this, but even not having other valid examples in the same terrace, it should be taken into consideration the fact that **THERE IS A TOTAL OF 18 GRANTED EXAMPLES OF MANSARD ROOF EXTENSIONS IN THE SAME STREET.** Houses in other terraces of Malden Road are of similar characteristics to No.78’s terrace and therefore, in our professional opinion, they should be considered.

Furthermore, the planning inspectorate report for No.66’s appeal is clearly positive in regards to that roof extension (belonging to the same terrace as No.78) and quotes another inspector in his report regarding the appeal for the roof extension at No. 74. Their repeated words are: *“...many of the nearby dwellings have been substantially altered over the years, as clearly demonstrated by my site visit. As a result, the terrace does not represent a group of uniform buildings.”*



The same inspector concludes that in his opinion *“there would be no significant harm to the character or appearance of the WKTCA arising from the appeal proposals”*. And we remark the similarities between that project at No.66 and the proposed for No.74.

B) LIFETIME HOMES STANDARD.

- *In relation to the possible reason for refusal “substandard internal flat sizes”*

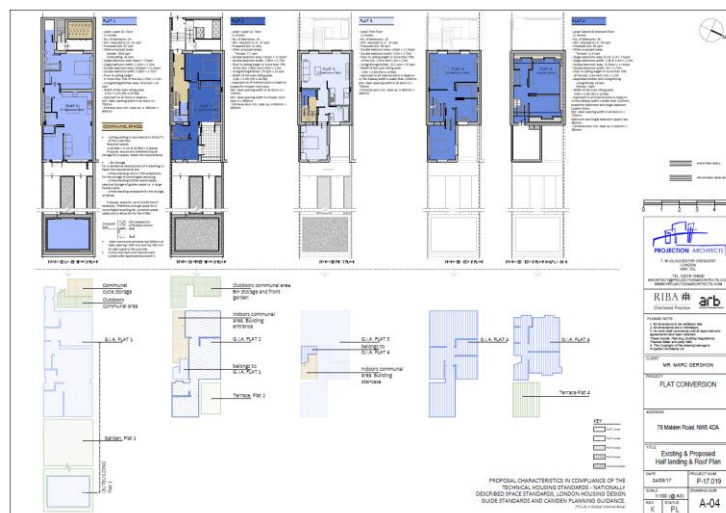
Camden Planning Guidance in its Policy DP6 requires that all housing developments should meet the Lifetime Homes Standard. Following this, the supporting document (Design and Access Statement) submitted for the Planning Application, explains the compliance of standard. Also submitted plan A05 shows schemes and description of every aspect of the proposed internal spaces.

It is known that the design or nature of some existing properties means that it will not be possible to meet every element of the standard, but that each scheme should achieve as many features as possible. We consider the exception of complying with just an insignificant part of the Lifetime Homes Standard (explained below) would not justify a refusal of the application. The proposal complies with all the recommended standard elements and also consists of a noticeably reasonable mix of units (1x3bed, 1x2bed and 2x1bed units). This provides quality to the existing residential accommodation and more affordable self-contained units for Camden’s community.

The only aspect the officer stated could be contrary to the compliance of the internal spaces was the size of 2 bedrooms:

- Bedroom in Flat 2: is 12sqm in area, and should be 0.5sqm smaller to comply with the “Technical housing standards – Nationally described space standards” for it to be a single bedroom. This was discussed with the planning officer and he said it should not be a problem, and in his opinion, it was even worse moving the bedroom wall 15cm to make it smaller and comply with that point of the regulation. In any situation, we would not have opposed to make that amendment (i.e., moving the wall 15cm).
- Bedroom in Flat 3: is 13sqm in area. Same situation as in Flat 2. The wall and entrance to bedroom could have been moved to make the bedroom slightly smaller and therefore consider it a single bedroom, instead of a double one.

This is the detailed scheme (plan A-05) that was submitted to explain the compliance with the “Technical housing standards – Nationally described space standards”



OTHER MATTERS.

- In relation to the possible reason for refusal “outbuilding together with standard reasons in the circumstances on inadequate basement information”

We would like to mention that no public comments have arisen in relation to this application.

Concerns about the rear garden outbuilding were expressed by the planning department regarding that its walls were attached to the boundaries. We consider this proposal matches those repeated in the same terrace for outbuildings at numbers 74, 68 and 66 (at least), as it is shown in the picture below:



All of them are outbuildings attached to their 3 boundaries. They were approved by the council and recently built.

We also expressed our acceptance of the council's possible condition to recess the outbuilding for example 0.5m from the boundaries (even adding and sending one more plan with those amendments) and therefore we consider this would not justify a refusal of the application (bearing in mind the other approved outbuildings in the same terrace, with similar characteristics to the proposed for No. 78).



A Basement Impact Assessment was also carried out for the excavation of just 200mm at the front to hide the bicycle storage and therefore we do not see a consistent point when saying that there is "inadequate basement information".

HIGHWAY SAFETY.

- *In relation to the possible reason for refusal: "and the need for a s.106 for car free housing and a basement highways approval in principle."*

Due to the grain of development there is a little off-street parking provision on Malden Road and surrounded streets. No. 78 has no off-street parking, but the proposal includes secure and sheltered bicycle storage for up to 6 units under the front garden. Details for that storage were submitted for the application and considered as acceptable by the council planning department. A Basement Impact Assessment was also carried out (as explained above) for the excavation of just 200mm at the front to hide that storage.

We are aware of the CPD Policy DP18, which seeks to limit the availability of car parking in Camden and would be open to discuss Council's use of planning obligations or conditions to mitigate the impact of the development. However, it is remarkable that for No.66's appeal decision, the appointed inspector wrote the following comment regarding parking conditions in Malden Road: "At the time of my lunchtime site visit, which can only provide a snapshot, there was no evidence of parking stress, particularly on Malden Road. I am therefore not persuaded that the proposal would result in unacceptable pressure on parking or be prejudicial to highway safety." He also adds that, "In any event, I note that Malden Road is an area that has been given a PTAL rating of 4 (good). Malden Road is already a bus route with regular services and is a short walk from Kentish Town West Railway station. It therefore seems to me that the area is well served by public transport and residents will have a reasonable choice as to whether or not to own a car." He also declares he does not consider that an obligation is necessary nor justified in this case to meet the requirements of S106 of the Town and Country Planning Act, 1990.

For the described situation, we consider this would not justify a refusal of the application.

Extra comments:

The council has uploaded the submitted documents to the Camden's web site, and one of them is titled as "Application form (No personal data)", however, none of the details contained in that document have been hidden, and therefore, the applicant's personal information and other details have been exposed to the public without consent. We believe this action and the delay in replying (more than 2 months from the statutory deadline) do not represent a competent behaviour of the Camden Council in its procedures.





5.0 CONCLUSION

This application has taken into consideration the surrounding area in terms of character and appearance but also in relation to the housing needs for the area. No comments or objections have been received regarding the application under consideration and special attention has been paid to meet the recommended Lifetime Homes standard and Local planning policies and Camden design guidance.

Despite the disagreement with the council due to the proposal of a mansard-type roof extension, we consider this application should be accepted, as it has happened with the other 18 roof extension cases approved in the same street. Two of them recently approved: No.68 (granted by the council in 2013) and No. 66 (approved through appeal in 2016).

Furthermore, the proposed mix of units follows Camden's recommendation to create more affordable and comfortable new housing units for the area and its inhabitants. This project helps to regenerate the property, currently in poor condition.

It is contrary to that encouragement and at the same time devastating that the Council have adopted such approach in assessing the appeal application, failing to take into account the surrounding conditions, the overall benefits of this proposal and the positive contribution that this project would make.

For the above reason, it is therefore politely requested that this appeal is allowed.