

# 338 KILBURN HIGH ROAD & 2A IVERSON ROAD LONDON, NW6 2QN

PLANNING APPEAL - STATEMENT OF CASE  
LPA REF: 2017/6847/P

Prepared By

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**Client**

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**Melview Ltd**

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## 1.0 INTRODUCTION

- 1.1 This statement accompanies an appeal against the decision by the London Borough of Camden ("the Council" hereafter) to refuse planning permission for a double mansard roof extension at 338 Kilburn High Road and 2A Iverson Road, London, NW6 2QN (2017/6847/P).
- 1.2 The proposed development seeks to erect a part-one/part-two storey mansard roof extension to create 1 x 1-bed and 2 x 2-bed self-contained flats. It is a resubmission of 2016/6270/P, which was dismissed at appeal in August 2017 (PINS Ref: APP/X5210/W/17/3174423 – see Appendix One for Appeal Decision).
- 1.3 The Council determined to refuse the application for 5 reasons.
- 1.4 Reasons for Refusal 2-5 relate to the absence of a legal agreement to secure various matters associated with the proposed development, e.g. a Construction Management Plan and financial contributions. These matters are straightforward and can be easily addressed through the provision of a legal agreement in due course.
- 1.5 The main reason for refusal therefore, and the focus of this statement, is Reason for Refusal 1 which states;
- "The proposed two storey roof extension by reason of its height, bulk and detailed design would be detrimental to the character and appearance of the building and the terrace, contrary to Policy D1 of the Camden Local Plan 2017."*
- 1.6 In light of the principal reason for refusal, section 2 of this statement first provides a description of the site and surrounding area to better understand the host building, site context, character and appearance.
- 1.7 Section 3 then provides a summary of planning history relevant to the case.
- 1.8 Section 4 details the policy framework against which the proposed development should be assessed.
- 1.9 Section 5 assesses the delegated officer report issued by Camden Council in refusing the development. This section sets out the appellant's grounds of appeal.
- 1.10 Finally, section 6 summarises and concludes this statement.

## 2.0 DESCRIPTION OF THE APPEAL SITE AND SURROUNDING AREA

### a. The Appeal Site

- 2.1 338 Kilburn High Road and 2A Iverson Road ('the appeal site' hereafter) comprises a four-storey building, situated at the cross-junction of Kilburn High Road with Iverson Road and Cavendish Road.



SITE LOCATION PLAN

- 2.2 Ground floor level accommodates retail uses (Use Class A1); upper floors accommodate office floorspace (Use Class B1(a)). The building is distinctive by virtue of its prominent corner location and its bevelled corner feature forming the junction of Kilburn High Road and Iverson Road.



APPEAL SITE VIEWED FROM JUNCTION

- 2.3 The predominant material is London stock brick with rows of sash windows either of aluminium or timber, defining clear lines of axis within its façade. The facade is further detailed with ornamental design elements such as gauged arches, string courses, dentil course and cornicing.
- 2.4 The ground floor shopfront lacks the same character as it has been altered significantly through the years by its various commercial tenants.
- 2.5 At roof level the building is distinct from its neighbours, comprising one of the only flat roofed structures in the area. The flat roof accommodates various antenna/plant equipment on the eastern side of the roof, which are visible from street level behind the building's decorative parapet and are considered to detract from the buildings overall appearance.



ANTENNAE ON ROOF OF APPEAL SITE



## b. The Surrounding Area

- 2.6 Kilburn High Road forms part of the A5, a busy, bustling, densely developed and populated arterial route stretching north as far as the M1 Motorway/Elstree, and south into central London/ Hyde Park and Oxford Street.
- 2.7 Situated between Brondesbury and Kilburn train stations, the site is well served by Overground, Underground and bus services and has a public transport accessibility level (PTAL) of 5, on a scale where 0 is the worst and 6 is the best.
- 2.8 The site forms part of a prominent junction in Kilburn, the immediate context accommodates a variety of building heights, bulk and design compositions of traditional and contemporary forms.



VARIETY IN SCALE, HEIGHT AND DESIGN OF NEIGHBOURING BUILDINGS

(LEFT: 375 KILBURN HIGH ROAD

UPPER RIGHT: 336-332 KILBURN HIGH ROAD

LOWER RIGHT: SPRING COURT)

- 2.9 The north-east corner of the junction accommodates Spring Court, a part 5/part 4 storey building in residential use. The property is faced in red brick at ground floor with yellow brick and 'stone' banding features over 4 upper floors with pitched tiled roof over.
- 2.10 Further north is 340-354 Kilburn High Road (Linburn House), taller than Spring Court by approximately half a storey, these Victorian properties are characterised by a repetition of pediments above the first-floor windows.



AERIAL VIEW

- 2.11 At the south-west corner of the junction is 375 Kilburn High Road. Being on the western side of Kilburn High Road, the property falls within the administration of the London Borough of Brent. Notwithstanding this the site forms part of the established context.



375 KILBURN HIGH ROAD

- 2.12 The property comprises three principal storeys with an additional mansard roof extension partly obscured by a painted and rendered parapet. There is a public house at ground floor level with residential units on the upper floors.

- 2.13 At the north-west corner of the junction. Nos. 377 & 377A Kilburn High Road comprises a significant building of an entirely contemporary vernacular.



377 &amp; 377A KILBURN HIGH ROAD

- 2.14 The ground floor level is largely curtain glazed; first floor to fourth floor is faced in off-white render. The building is terminated at fifth floor level in a contrasting grey coloured standing seam cladding which references the form of a mansard roof extension.



### 3.0 RELEVANT PLANNING HISTORY

#### a. The Appeal Site

- 3.1 In 2014, prior approval was granted for the change of use of first, second and third floors from office (B1a) to self-contained flats (Class C3). This consent has been implemented.
- 3.2 In 2015, a further permission was granted for a single storey mansard roof extension creating 1 x 2 bedroom flat and 1 x 1 bedroom flat (LPA Ref: 2015/3445/P). This consent has not been implemented in light of the preferred appeal proposal.

#### 2016/6270/P

- 3.3 An application for a part-1/part-2 storey roof extension to create 3 flats (2 x 2-bed & 1 x 1-bed) was submitted to the Council on 30<sup>th</sup> November 2016. The proposed extension was designed in a contemporary architectural style, with two-tone standing seam cladding and angular roof slopes.



EXISTING AND REFUSED FRONT ELEVATIONS

- 3.4 The application was refused permission on 8<sup>th</sup> February 2017. Five Reasons for Refusal were given, although Reasons 2-5 related to the absence of a S106 legal agreement. The principal Reason for Refusal related to design and bulk:

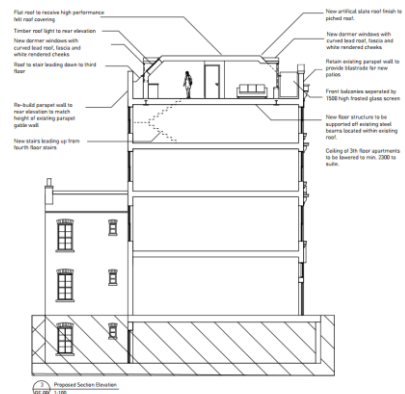
*“The proposed two storey roof extension by reason of its height, bulk, detailed design would be detrimental to the character and appearance of the building and the terrace, contrary to policies CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 (Securing high quality design) of the London Borough of Camden Local Development Framework Development Policies.”*

- 3.5 In their report, officers found that *“the proposed two-tone, two-storey roof extension in zinc with an irregular angular profile is considered to be overscaled and out of proportion with the host building, and unsympathetic to the host building in point of design and materials.”* It was also considered that the proposed extension would disrupt the relationship between the application site and 375 Kilburn High Road on the opposite corner of the junction.
- 3.6 An appeal was lodged on 18<sup>th</sup> May 2018 (PINS ref: APP/X5210/W/17/317/4423), along with a signed S106 legal agreement submitted to overcome Reasons for Refusal 2-5. The case was put forward that the proposed design was appropriate, and that the resultant building height would be similar to that of neighbouring buildings such as 377 and 377A Kilburn High Road and Linburn House.

- 3.7 However, the appeal was subsequently dismissed on 4<sup>th</sup> August 2017. In their report, the Inspector considered that the proposed design was not compatible with the character of the host building, which formed a pair with 375 Kilburn High Road: *“The two buildings, despite architectural variances, complement each other in the street scene and the proposed additions would unacceptably alter and unbalance this positive relationship.”*
- 3.8 The deviation of the proposed design from the idiom of host building was seen to be unacceptable: *“The scale of the extension and the contrast of the existing and proposed materials would give it an unacceptably dominant presence over the crossroads detracting from the building’s distinctiveness.”*
- 3.9 On the question of height and scale, the Inspector agreed that *“the surrounding area comprises a great variety of properties in terms of scale, massing, age and height”*. Despite the *“variation in the design and scale of surrounding properties”*, it was maintained that the scale of the extension, combined with *“the contrast of existing and proposed materials would give [the proposal] an unacceptably dominant presence over the crossroads detracting from the building’s distinctiveness.”* The Inspector found that the mansard extensions at 375 and 340-354 Kilburn High Road were more appropriate in scale.

### b. The Surrounding Area

- 3.10 The surrounding area has been subject to a number of relatively recent major developments which have influenced the character and appearance of the immediate site setting.
- 3.11 As referred to in paragraphs 2.14 – 2.15 above, at 377 Kilburn High Road planning permission was granted in 2004 for the demolition of existing structures on that site, allowing the erection of a part 3, part 4 and part 6-storey building with basement, to provide A1 retail at ground floor level together with 35 x studio/1-/2-bedroom flats over upper floors (Brent LPA Ref: 03/3447).
- 3.12 In approving the above (Brent ref 03/3447), officers raised no objection to the size, scale or design of the development. The officers noted the comment of an Inspector who had worked on a previous application for the same scheme that had been dismissed in 2000 owing to a lack of a legal agreement; *“this character (of the area) is already very mixed with a wide variety of building heights, designs and materials along the High Road”*.
- 3.13 At the south-west corner of the junction is 375 Kilburn High Road, the property comprises three principal storeys, however an additional mansard-style roof extension has been recently added.
- 3.14 340-354 Kilburn High Road (Linburn House), comprises a grand 4 storey Victorian terrace. In 2009, planning permission was granted for the demolition of the existing roof and the erection of a new additional mansard level of accommodation comprising five apartments (LPA Ref: 2009/3810/P).
- 3.15 In approving this development officers stated that *“it is considered that the scale of the proposed development would be appropriate as an extension to the existing building. The detailed design is considered acceptable and fenestration would align with that on the floor below. As such the application is in line with policies B1 (general design principles), B3 (extensions) and supporting SPG”*.
- 



**APPROVED SECTION**

- 3.16 Finally, at 357-363 Kilburn High Road, permission was granted in 2008 (app 07/3130) for erection of a 5-storey building comprising 2 ground floor retail units and 11 flats above.



APPROVED EAST ELEVATION/STREET CONTEXT PLAN

- 3.17 In approving the proposals, the Urban Design Officer states *“the proposal is contemporary in approach with a scale and massing apparently relatively balanced to its surroundings...the scale is generally acceptable.”*

#### 4.0 POLICY FRAMEWORK

- 4.1 The following documents comprise the relevant Development Plan Framework, and are relevant to this appeal:

##### National

National Planning Policy Framework	2012
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##### London

The London Plan (with consolidated alterations)	2016
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##### London Borough of Camden

<u>Local Plan</u>	2017
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##### Supplementary Planning Documents

Camden Planning Guidance 1: Design	2015
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Camden Planning Guidance 2: Housing	2015
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Camden Planning Guidance 6: Amenity	2011
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Camden Planning Guidance 7: Transport	2011
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## 5.0 GROUNDS OF APPEAL

### a. Reason for Refusal One

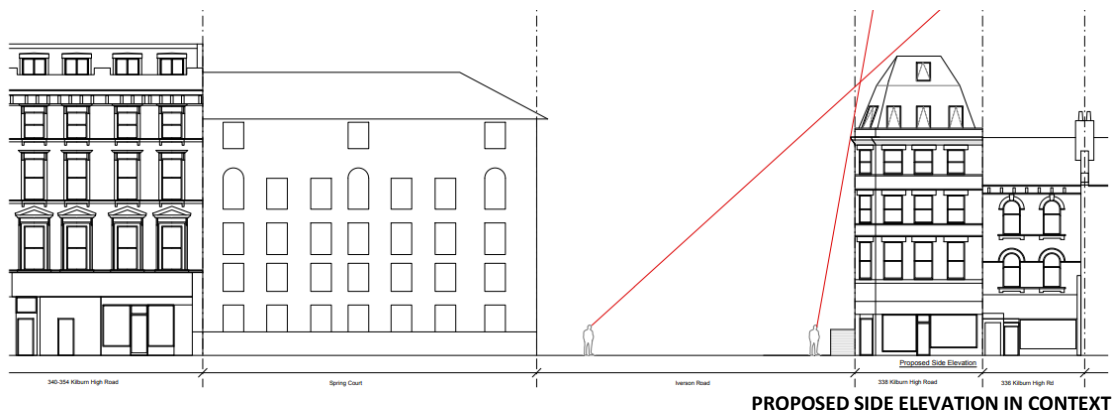
*The proposed two storey roof extension by reason of its height, bulk and detailed design would be detrimental to the character and appearance of the building and the terrace, contrary to policy D1 of the Camden Local Plan 2017.*

- 5.1 In refusing the development, the officer's report refers to the Council's design policies, namely Policy D1 ("Design") of the Camden Local Plan, which requires that development "*respects local context and character*" and "*comprises details and materials that are of high quality and complement the local character*". Paragraph 7.2 of the supporting text further details that developments should take into account "*the character, setting, context and the form of and scale of neighbouring buildings, the character and proportions of the existing building*" and "*the prevailing pattern, density and scale of surrounding development*".
- 5.2 Reference is also made to Camden Planning Guidance 1 (Design), which states that roof extensions should consider "*scale and visual prominence*", "*the effect on the established townscape and architectural style*" and "*the effect on neighbouring properties*".
- 5.3 In their report, officers comment that despite the revised traditional design, the proposed development would still appear "*over-scaled and out of proportion with the host building, and unsympathetic to the host building, being overly prominent, and failing to relate to the host building.*" Despite repeatedly drawing attention to the need to respect the proportions and scale of the host building, no detailed justification is given as to why the extension would appear over-scaled or unsympathetic.
- 5.4 The officer continues to assert that the revised design does not overcome the previous reason for refusal as "*the bulk would remain largely the same.... Adding two storeys to it would increase its size by almost 30% at the corner, greatly increasing the bulk and mass of the building*". This assessment is misleading, as the proposed two-storey element would be contained to the western half of the roof. Furthermore, this two-storey element would be set back at a steeper roofslope than the first-floor element; in comparison to the recently refused contemporary proposal which extended upwards from the façade of the host building, this revised design would ensure the appreciation of any additional height and bulk would be greatly mitigated as viewed from street-level.
- 5.5 With this steeply angled two-storey element, the proposed development would increase the height of the building by 4.3m; this would represent a marginal increase in height of 2m over the approved single storey application (2015/3445/P).



(L-R) EXISTING SIDE ELEVATION, APPROVED SIDE ELEVATION (2015/3445/P), REFUSED SIDE ELEVATION (2017/6270/P), PROPOSED SIDE ELEVATION (2017/6847/P)

- 5.6 In the delegated report for the approved single-storey application, officers acknowledged that *“the proposed mansard roof extension would further increase the height differential between the terraced properties on Iverson Road and host property; however not to an extent that would result in a scale and visual prominence that would overpower the properties along Iverson Road. It is not considered that the single storey roof extension would result in the building appearing out of balance with Spring Court and 377 Kilburn High Road on the opposite corner.”*
- 5.7 The revised scheme builds upon the approved design by setting the angle of the first-floor mansard extension at a steeper angle, while accommodating an additional 2-bed unit that would be set back by >1m. The proposed design thereby optimises the use of the site, while ensuring that the second-storey element would remain appropriately subservient to the host building in an architectural style that would be well-integrated within the surrounding pattern of development in height, scale and materiality. Furthermore, the more traditional design would serve to maintain the integrity of the perceived relationship between the appeal site and 375 Kilburn High Road on the opposite corner of the junction.
- 5.8 It is considered that the Council’s resistance to a partial second-storey roof extension is unreasonable, as Spring Court and Linburn House to the north of the appeal site are six-storeys and five-storeys respectively; with the implementation of the proposed design, the resultant building would be of a similar height and scale.



- 5.9 Furthermore, Paragraph 118(e) of the draft National Planning Policy Framework clearly states that Councils should encourage development along the lines of what is proposed as part of this appeal:

*“[Planning policies and decisions should] support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with prevailing height and form of neighbouring properties and overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers.”*

- 5.10 Assessing the design against CPG1 and Policy D1 of the Camden Local Plan, it is not clear how the proposed development contravenes any local design policies and standards. Rather, the proposed development would support the Council’s policies, specifically Policy H1 (“Maximising housing supply”):

*“The Council will aim to secure a sufficient supply of homes to meet the needs of existing and future households by maximising the supply of housing and exceeding a target of 16,800 additional homes from 2015/2016 – 2030/2031, **including 11,130 additional self-contained homes.**”*

- 5.11 As such, it is considered that the proposed development would support Paragraph 118 of the Draft NPPF, while supporting the Council’s policies on design and housing supply.
- 5.12 In their report, officers continue on to comment that the proposed development would be visible in longer views, which was a point of criticism within the Inspector’s assessment of the previous scheme.

However, it should be noted that this criticism related to the appearance of the previous proposal; while the proposed development would be visible within some longer views, this does not mean that the resultant appearance of the building as a whole would be degraded. Given the limited scale of the second-storey element and its set-back within the roof form, we disagree that the proposed design would “*unacceptably detract from the character of the building and its presence in the streetscene*” when seen in longer views.

- 5.13 Furthermore, at paragraph 2.10 of their delegated report, officers cite the Inspector’s comments on the previous appeal as justification for refusing a fifth floor in principle:

*“... it is the fifth floor that is in contention. The applicant has pointed to a number of examples nearby as justification for the top floor of the proposal, but the Council does not consider these examples relevant. The Planning Inspectorate agreed with the Council: ‘I am not persuaded that any of the examples put before me are directly comparable to the appeal scheme either in terms of their architectural and historical form or their context.’”*

- 5.14 However, within the context of their report, the Inspector’s comment relates to the contemporary architectural form of the previous scheme, stating that the surrounding pattern of development did not provide any point of comparison. It is simply incorrect to state that the previous Inspector disregarded the principle of a fifth floor; rather, their comments related more to the contemporary architectural idiom that had been proposed. This comment is not directly relevant to the revised scheme, which responds to the character and appearance of the surrounding streetscene in scale, height, design and materiality. As the Inspector states later within their report, “*each appeal must be considered on its own merits.*”
- 5.15 Contrary to the comments of officers, the Inspector states in their appeal decision that “*the scale of the extension and the contrast of the existing and proposed materials would give it an unacceptably dominant presence over the crossroads detracting from the building’s distinctiveness.*”
- 5.16 In consideration of these points, it is proposed that the scale and bulk of the previous scheme was unacceptable *in combination* with the contemporary design.
- 5.17 Through a more traditional design and materials, the proposed double mansard extension would be of an acceptable scale in proportion to the host building and the surrounding pattern of development. However, the altered design approach does much to reduce the scale in comparison to the previous scheme.
- 5.18 In consideration of the significant findings above, the revised design would overcome the concerns of the Inspector as set out in their appeal decision. As such, it is considered that the proposed development would be in accordance with Policy D1 of the Local Plan and CPG1.

**b. Reasons for Refusal Two-Five**

*2) 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 T1, T2 and T3 of the Camden Local Plan.*

*3) The proposal, in the absence of a legal agreement to secure highway contributions to undertake external works outside the application site, would fail to secure adequate provision for the safety of pedestrians, cyclists and vehicles, contrary to policies A1, T1, T2 and T3 of the Camden Local Plan 2017.*

*4) The proposed development, in the absence of a legal agreement to secure a Construction Management Plan, and a financial contribution for its subsequent review, would be likely to give rise to conflicts with other road users, and be detrimental to the amenities of the area generally, contrary to policies A1, DM1, T1, T3 and T4 of the Camden Local Plan 2017.*

*5) The proposed development, in the absence of a financial contribution secured towards affordable housing would fail to contribute to the supply of affordable housing within the borough, contrary to policy H4 of the Camden Local Plan 2017.*

- 5.19 As acknowledged under the informative attached to Camden's decision to refuse the application, reasons for refusal 2-5 (above) can be easily addressed.
- 5.20 The informative states "*without prejudice to any future application or appeal, the applicant is advised that reasons for refusal numbers 2-5 could be overcome by entering into a Section 106 Legal Agreement for a scheme that was in all other respects acceptable*".
- 5.21 It has been agreed with the Council that upon validation of this appeal, a draft bilateral legal agreement will be prepared by the London Borough of Camden, signed by the applicant and the Council, will be submitted to the Inspectorate in due course (see Appendix Two for correspondence with the Council to this effect).



## 6.0 SUMMARY AND CONCLUSIONS

- 6.1 This statement accompanies an appeal against the decision of the London Borough of Camden to refuse permission for a proposed part-one/part-2 storey mansard roof extension to form 1 x 1-bed and 2 x 2-bed self-contained flats (LPA Ref: 2016/6847/P). The proposed development is a resubmission of 2016/6270/P, which was dismissed at appeal in August 2017 (PINS Ref: APP/X5210/W/17/3174423).
- 6.2 The Council determined to refuse the application for 5 reasons.
- 6.3 Reasons for Refusal 2-5 relate to the absence of a legal agreement to secure various matters associated with the proposed development, e.g. a Construction Management Plan and financial contributions. These matters are straightforward and can be easily addressed in due course; as agreed with the Council, a draft bilateral legal agreement will be prepared and signed by both the Council and applicant upon validation of this appeal and submitted to the Inspector thereafter.
- 6.4 The main reason for refusal therefore, is Reason for Refusal 1 which states;
- “The proposed two storey roof extension by reason of its height, bulk and detailed design would be detrimental to the character and appearance of the building and the terrace, contrary to Policy D1 of the Camden Local Plan 2017.”*
- 6.5 The Inspector states in their appeal decision that *“the scale of the extension and the contrast of the existing and proposed materials would give it an unacceptably dominant presence over the crossroads detracting from the building’s distinctiveness.”* To respond to the Inspector’s concerns, the revised design incorporates a more traditional design and mitigates the appearance of height and bulk by setting back the second-storey element with a steeper roofslope.
- 6.6 The resultant building would be five-storeys tall at its highest point, and would be comparable in height, scale and design to nearby properties at Spring Court and Linburn House. The more traditional design proposed as part of this appeal would also maintain the relationship between the appeal site and 375 Kilburn High Road on the opposite corner of the junction of Iverson Road, Cavendish Road and Iverson Road.
- 6.7 Contrary to officers’ comments, it is considered that the proposed development is fully compliant with Policies D1 and CPG1.
- 6.8 In light of the significant findings of this statement, we request that this appeal is allowed.

## APPENDICES

1. Appeal Decision on 2016/6270/P (PINS Ref: APP/X5210/W/17/3174423)



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## Appeal Decision

Site visit made on 24 July 2017

**by Caroline Jones BA (Hons) DipTP MTP MRTPI**

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

**Decision date: 4 August 2017**

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**Appeal Ref: APP/X5210/W/17/3174423**

**338 Kilburn High Road and 2A Iverson Road, London NW6 2QN**

- 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 Mark Low against the decision of the Council of the London Borough of Camden.
  - The application Ref 2016/6270/P, dated 14 November 2016, was refused by notice dated 8 February 2017.
  - The development proposed is erection of one part single, part two story roof extension to create 1 x 1 bed and 2x 2 bed self-contained units.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. Following the determination of the application and submission of the appeal, the Council adopted the Camden Local Plan (LP) which has replaced the Camden Core Strategy and Camden Development Policies. Therefore, in determining the appeal, I have had regard to the LP policies identified by the Council which supersede the policies of the Core Strategy and Development Policies set out in the decision notice. The appellant has had the opportunity to comment on the implications of the adopted policies to his case.

### Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the host property and surrounding area.

### Reasons

4. The appeal property occupies a prominent corner plot located on a busy crossroads at the junction of Kilburn High Road and Iverson Road. The building is a four storey property with commercial uses on the ground floor. The property benefits from permission for C3 use on the first, second and third floors<sup>1</sup>. The property is an attractive 19<sup>th</sup> Century brick building which provides architectural and historic interest to the character and appearance of the area. There is a certain regularity and rhythm to the facades which together with the fine architectural detailing creates an imposing frontage onto the crossroads.

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<sup>1</sup> Planning application Refs: 2014/0548/P & 2014/7304/P

Appeal Decision APP/X5210/W/17/3174423

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- The surrounding area comprises a great variety of properties in terms of scale, massing, age and height.
5. The proposal comprises the erection of a part one and part two storey flat roof extension with angular roof slopes constructed in two shades of grey standing seam zinc vertical cladding. The roof extension would be set back from the main elevation and the fifth floor would include a roof terrace. The windows would be aluminium framed.
  6. The contemporary and asymmetrical box like additions would fundamentally change the proportions, height, shape and visual integrity of the existing building. The upward extension would be a prominent and top heavy addition. Together with the use of grey materials the additional floors would appear in stark contrast to the handsome facades of the building. The uneasy contrast of materials and detailing would result in a visually incongruous and disproportionate addition.
  7. I accept that the structure would not be visible above the parapet in shorter views close to the building and that the railway bridge would screen views from the south. However, the extensions would be visible when travelling from the west along Cavendish Road and to a lesser degree from the east when travelling along Iverson Road. It would be particularly visible when approaching the crossroads from the north. From this view point, I agree with the Council that the appeal building forms a pair with 375 Kilburn High Road. The buildings are clearly of the same era, of a similar height, each with a bevelled corner onto the crossroads. The two buildings, despite architectural variances complement each other in the street scene and the proposed additions would unacceptably alter and unbalance this positive relationship.
  8. The fact that there is variation in the design and scale of surrounding properties and the presence of antennae on the roof of the appeal property does not justify the relatively major works proposed at roof level. Whilst I note the windows would align with those below, I do not agree that it would be a positive addition nor does the proposal create a direct reference to a traditional mansard structure. Rather, the scale of the extension and the contrast of the existing and proposed materials would give it an unacceptably dominant presence over the crossroads detracting from the building's distinctiveness. The building forms an inherent part of the character and appearance of the busy crossroads and the proposal would have a detrimental effect upon the architectural integrity of this handsome building and its contribution to the area.
  9. In reaching these findings, I am mindful that paragraph 60 of the National Planning Policy Framework (the Framework) states that decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. That said, for the aforementioned reasons I find that the proposal conflicts with one of the core principles of the Framework, that planning should always secure high quality design and paragraph 64 which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.
  10. The appellant has drawn my attention to several properties that they assert demonstrate the variety of heights, bulk and design composition of traditional

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<https://www.gov.uk/planning-inspectorate>

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Appeal Decision APP/X5210/W/17/3174423

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and contemporary forms. With the exception of Suffolk house, I was able to consider the examples at my site visit. I am not persuaded that any of the examples put before me are directly comparable to the appeal scheme either in terms of their architectural and historic form or their context. The buildings at 377 and 357-363 Kilburn High Road are standalone new builds which are located in a different local authority area and were therefore assessed under a different policy context and prior to the publication of the Framework. For these reasons I attach little weight to these examples.

11. I note from the aerial photographs provided that the property at 375 Kilburn High Road comprises three storeys with a mansard roof extension. However, from the information before me it appears that it is a traditional single storey mansard and an inconspicuous addition to the property. Similarly, the roof extensions at 340-354 Kilburn High Road are single storey of a traditional mansard design. I agree with the Council that these examples are more appropriate in their scale. I do not consider that Springfield House, a 1980s purpose built property is either architecturally or proportionally comparable to the appeal property. I note that Suffolk House provides an example of a modern extension to a period property. However, from the limited information before me, it does not appear comparable to the appeal building in composition, scale or surrounding context. In any case, each appeal must be considered on its own merits.
12. I therefore conclude that the proposal would materially harm the character and appearance of the host property and the area thereby conflicting with Policy D1 of the LP which requires, amongst other things, development to be of the highest architectural and urban design quality which improves the function, appearance and character of the area.

#### **Other Matters**

13. A signed and dated legal agreement under section 106 of the Town and Country Planning Act 1990 has been submitted which has been accepted by the Council as addressing reasons for refusal No 2-5. Notwithstanding, were I to allow the appeal, I would still need to consider the obligation against the relevant statutory tests. However, as I have found harm in relation to character and appearance, there is no necessity for me to consider this further.
14. I note that Policy H4 of the Local Plan states that the Council will expect a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to residential floorspace of 100m<sup>2</sup> of GIA or more. In this regard the Council state that a contribution of £31,959 would be required and that this could be secured by way of an attached condition which has been agreed by the appellant. I have my doubts on whether a condition would be appropriate having regard to the Planning Practice Guidance which advises that a positively worded condition should not be used to require a payment of money. Nevertheless, in light of my findings above I have not considered this matter further.
15. Notwithstanding the above, the potential contribution towards affordable housing is a benefit weighing in favour of the scheme. In addition the proposed development would contribute to housing supply in the Borough including units of size that are a priority to the Council in an accessible location which is identified for growth. However, whilst these benefits are material considerations which weigh in favour of the proposal, the benefits associated

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with three dwellings are not sufficient to outweigh the harm that would result to the character and appearance of the host property and the surrounding area if the proposal were to go ahead.

**Conclusion**

16. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*Caroline Jones*

INSPECTOR

2. Correspondence between Agent and Case Officer regarding the preparation of Draft S106 Legal Agreement

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**From:** Cathal Brennan [<mailto:cb@ntaplanning.co.uk>]  
**Sent:** 27 February 2018 16:48  
**To:** Craig, Tessa <[Tessa.Craig@camden.gov.uk](mailto:Tessa.Craig@camden.gov.uk)>  
**Subject:** RE: 338 Kilburn High Road

Thanks Tessa.

We are going to appeal this decision, but we would need to draft up a new S106 agreement like last year. Could you ask someone in the legal department to prepare an updated document which the applicant will then have signed before we submit the appeal?

Actually – would we need to have the s106 signed before we appeal? Or can we appeal, and then sort out the S106 afterwards?

Thanks.

Kind regards,

**Cathal Brennan** BAE. (HONS) MPLAN  
PLANNER



T: 020 7636 3961

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**From:** Craig, Tessa  
**Sent:** 28 February 2018 14:48  
**To:** Cathal Brennan <[cb@ntaplanning.co.uk](mailto:cb@ntaplanning.co.uk)>  
**Subject:** RE: 338 Kilburn High Road

Hi Cathal,

I will at least get the ball rolling and let you know who the officer is, that way a draft can be prepared.

I'll come back to you once I know who is dealing with it.

Kind regards,

Tessa Craig  
Planning Officer

Telephone: 020 7974 6750

**From:** Craig, Tessa <Tessa.Craig@camden.gov.uk>  
**Sent:** 12 March 2018 10:44  
**To:** Cathal Brennan <cb@ntaplanning.co.uk>  
**Cc:** Obushenkova, Olga <Olga.Obushenkova@camden.gov.uk>  
**Subject:** RE: 338 Kilburn High Road

Hi Cathal,

Olga Obushenkova (Lawyer in our Legal Team) shall be dealing with this application, however we will wait until the appeal is lodged before we start the draft s106 agreement. Can you let us know once PINS validates the appeal?

Thank you

Tessa Craig  
Planning Officer

Telephone: 020 7974 6750

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**From:** Cathal Brennan <cb@ntaplanning.co.uk>  
**Sent:** 14 March 2018 12:34  
**To:** 'Craig, Tessa'  
**Cc:** 'Obushenkova, Olga'  
**Subject:** RE: 338 Kilburn High Road

Hi Tessa,

Sounds good to me, I'll let you know in due course.

Many thanks.

Kind regards,

**Cathal Brennan** BAE. (HONS) MPLAN  
PLANNER



T: 020 7636 3961