

Planning Appeal

## FULL STATEMENT OF CASE

Against the non-determination by London Borough of Camden to issue a decision within the statutory period for a full planning permission on the land at

128-130 Grafton Road, Kentish Town, London, NW5 4BA

April 2018



## I. INTRODUCTION

### 4. List of submitted documents:

GA 01\_Site Location Plan A3  
GA 02\_Existing Site Plan A1  
GA 03\_Existing Side Elevations A1  
GA 04\_Existing Front and Rear Elevations A1  
GA 05\_Proposed Site Plan A1  
GA 06\_Proposed Plans A1  
GA 07\_Proposed Side Elevations A1  
GA 08\_Proposed Front and Rear Elevations A1  
GA 09\_proposed 3D Perspectives A1  
Planning Application form  
CIL form  
Design and access statement  
Planning statement  
Historical maps small scale  
Historical maps large scale  
Air Quality Assessment  
BIA Screening and Scoping Land Stability  
Environmental statement  
Sustainability statement  
Water Screening and Scoping  
BIA Phase 1

1. This Full Statement of Case is prepared on behalf of ETA Bridging LTD (*The Applicant*) by Miss M Andreeva (*The Agent*) in relation to the land at 128-130 Grafton Road, Kentish Town, London, NW5 4BA (*The Appeal Site*).
2. The submission of this Full Statement of Case is regarding the non-determination of a full planning application under Application reference 2017/4293/P with a **statutory expiry date 07 March 2018**.
3. The appeal statement relates to an application that sought full planning permission for the *demolition of existing two-storey industrial building (Class B8) and erection of a 5-storey plus basement, residential building comprising 6 x 2-bed and 3 x 3-bed flats (Class C3)*.
4. The application **2017/4293/P** was originally submitted on 28 July 2017 (latest amended version 19 Dec 2017), and **validated and registered on 10 Jan 2018**, with an Acknowledgement Letter issued 23 Jan 2018.
5. The purpose of this appeal is to seek approval for full planning permission.

## II. PROPOSED DEVELOPMENT



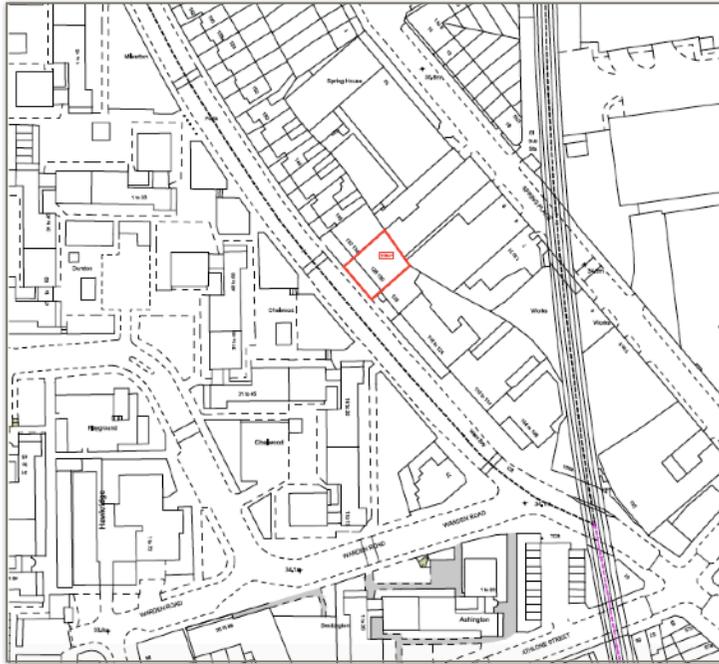
EXISTING STREETVIEW



PROPOSED STREETVIEW

1. The full planning application subject to this appeal sought planning consent to demolish of existing two-storey industrial building (Class B8) and erect a 5-storey plus basement, residential building comprising 6 x 2-bed and 3 x 3-bed flats (Class C3).
2. It is acknowledged that the site at 128-130 Grafton Road has not been positively developed in the intervening period and this application seeks to establish a new chapter in the site's planning history by proposing a development which is viable and makes the best use of this urban land. The current site is in a poor and neglected condition, failing to meet the needed employment potential, comply with regulations for accessibility and size within the local context and policy framework, as well as causing noise and disturbance in the residential neighbourhood.
3. The proposed works at 128-130 Grafton Road will have an overall improvement on the condition of the site by generating better internal spaces for a much needed residential use in the area (*Policy DP2: Making full use of Camden's capacity for housing of the Camden Development Policies (2010)*), as well as providing a more aesthetically-pleasing external envelope.
4. List of plans, drawings, and supporting documents submitted with the planning application, all of which are submitted as part of this appeal.

### III. SITE AND CONTEXT



SITE LOCATION PLAN



SITE PLAN

1. The existing property is a two-storey industrial building with forecourt parking. It adjoins a much larger residential scheme on its eastern side (no. 126) which has no windows on the flank elevation overlooking the application site. There is a single-storey industrial building on its western side (132-134) and the properties back onto a significantly larger building fronting Spring Place which is in residential use.
2. There is a mixed character and variation in building heights along Grafton Road such that the additional accommodation sought on the application site, based on a clear precedent, is able to be sensibly absorbed with no adverse impact on the street scene.
3. The site does **not** lie within a conservation area.
4. Similar proposals in the immediate area have been granted permission:
  - (2015/0528/P) Erection of 6x mews houses following demolition of existing warehouse building - Granted (Apr 1 2015)
  - (2015/5750/P) Demolition of existing lower ground floor rear extension and erection of a three-storey rear extension - Full Planning Permission - Granted (Nov 12 2015)
  - (2014/4270/P) Erection of 3 no. new-build dwellings (1x3 bed, 1x 2bed and 1x1bed) and associated external work at end of existing terraces on Grafton Road, Lamble Street and Barrington Court - Granted (Mar 30 2015)
  - (2012/1882/P) Change of use from drinking establishment (Class A4) to 2 x 3 bed maisonettes (Class C3) at basement and part ground floor level and associated alterations including installation of light well with railings and three windows on north elevation, [...] - Granted (Oct 30 2012)

## IV. RELEVANT PLANNING HISTORY

1. In respect of planning history there are a number of early consents for storage of materials for various temporary periods which were permitted pursuant to TP/40874/1950 and TP/40874/1677/1951.
2. The more recent history is defined by two appeal decisions: The first was that pursuant to local planning authority's reference PL/8903721 which was refused by the Secretary of State on 22nd August 1990.
3. More recently an appeal was allowed on 4th March 2003, pursuant to local planning authority reference PEX 0200219 (PINS APP/X5210/A/1095059) for the residential development of 7 flats. In our opinion this planning appeal established the same height we are seeking with this application and it also clarified that the residential scheme was suitable for the site.
4. Allowed Appeal Decision- Appeal Ref.- AAP/X5210/A/02/1095059 (**see Appendix 1**)

## V.GROUNDS OF APPEAL

1. The appellant made an initial application to the Local Planning Authority for a full planning permission (**2017/4293/P**) on **28 July 2017**, which has been amended on several matters following consultations with the previously designated case officer, Rachel English. These amendments also involved the production of supporting documents, required to validate the application (BIA, AQA, Environmental statement, and Planning statement). Following the submission of the above-detailed supporting documents, the latest version of the planning application was submitted to the LPA on 19 Dec 2017.
2. The newly-appointed case officer to take over the application, Patrick Martfleet, validated and registered the application on **10 Jan 2018**, which was followed by an Acknowledgement Letter dated **23 Jan 2018**.
3. The application was given the **statutory expiry date of 07 March 2018**.
4. However, after having contacted the Council and the case officer directly on multiple occasions during and after the statutory period had passed, the applicant/agent did not receive any exact date regarding determination, nor were they offered an extension of time.
5. Over a month passed the statutory date for determination (13 April 2018), the agent was instructed to lodge an appeal again non-determination on the basis that the Council had ample of time to have made their decision, and a request for extension of time should have been made within the designated timeframe.
6. The **unreasonable behaviour** (non-determination within the proposed timeframe) has directly cost the applicant to incur unnecessary and wasted expense by the need to resort to appeal with the attendant direct costs of the process, as well as the indirect costs of suffering unnecessary delay in implementing the development which is for needed residential accommodation in the area.

## VI. CONCLUSION

1. The Appeal concerns the LPA's failure to determine an application within the statutory period given for a full planning permission for the following development at: 128-130 Grafton Road, Kentish Town, London, NW5 4BA.
2. *Demolition of existing two-storey industrial building (Class B8) and erection of a 5-storey plus basement, residential building comprising 6 x 2-bed and 3 x 3-bed flats (Class C3).*
3. For the above-detailed reasons, which in our view are considered unreasonable behaviour, the applicant appeals against non-determination.
4. Given the above, planning permission for the application should have been granted within the statutory time period.
5. The purpose of this appeal is to seek approval for full planning permission.

On behalf of the Applicant  
16 April 2018

<div style="text-align: right; font-weight: bold; font-size: small;">RECEIVED 14 MAR 2003</div> <div style="display: flex; justify-content: space-between; align-items: center; margin-top: 20px;">  <div style="text-align: center;"> <h2 style="margin: 0;">Appeal Decision</h2> <p style="font-size: 2em; margin: 0;">ALLOWED</p> </div> <div style="font-size: x-small; line-height: 1.2;"> <p>The Planning Inspectorate 4/09 Kite Wing Temple Quay House 2 The Square Temple Quay Bristol BS1 6PN ☎ 0117 372 6372 e-mail: enquiries@planning-inspectorate.gsi.gov.uk</p> </div> </div> <p style="margin-top: 10px;">Inquiry held on 28 January 2003</p> <p style="margin-top: 5px;"><b>by A D Robinson BA(Hons) DipTP MRTPI</b> an Inspector appointed by the First Secretary of State</p> <div style="text-align: right; font-size: x-small; margin-top: 10px;"> <p>Date <b>04 MAR 2003</b></p> </div> <hr style="border: 0.5px solid black; margin-top: 20px;"/> <p style="font-weight: bold; font-size: small;">Appeal Ref: APP/X5210/A/02/1095059 128 -130 Grafton Road, Kentish Town, London NW5</p> <ul style="list-style-type: none"> <li>The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.</li> <li>The appeal is made by Mr E Davis against the decision of Council of the London Borough of Camden.</li> <li>The application (Ref. PEX 0200219), dated 31 January 2002, was refused by notice dated 18 June 2002.</li> <li>The development proposed is the residential development of seven flats.</li> </ul> <p style="font-weight: bold; font-size: small; margin-top: 5px;">Summary of Decision: <b>The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.</b></p> <hr style="border: 0.5px solid black; margin-top: 5px;"/> <p style="font-weight: bold; font-size: x-small; margin-top: 5px;">Procedural Matters</p> <ol style="list-style-type: none"> <li>1. The above description of the proposed development is taken from the application form, but the decision notice and the appeal form refer to the demolition of an existing storage building, Class B8, and the construction of a 5 storey building to provide 7 residential units and 5 car parking spaces. At the inquiry, I said that this description more accurately reflected the nature of the proposed development and that I intended to use this rather than the original description.</li> <li>2. In addition to the loss of an employment site, the Council's reasons for refusal also encompassed the impact of the proposed development on the street scene and the loss of privacy to occupants of the second and third floor flats by dint of the closeness of rear facing windows. Two months or so after the issuing of decision notice, an amended drawing was submitted, No. 776/AP 01a, showing obscured glazing fitted to the rear facing second and third floor windows. Shortly before the inquiry, the Council indicated that its privacy concerns could be met by the amended drawing. Accordingly, I am treating the amended drawing as forming part of the application before me.</li> <li>3. The Council also indicated before the inquiry that it was not pursuing its reason for refusal in respect of the effect on the street scene. Accordingly, I have defined the main issue in this appeal in the light of the Council's decision to produce evidence only in respect of the loss of an employment site.</li> <li>4. I carried out an accompanied inspection of the site and its surroundings on the same day as the inquiry.</li> <li>5. At the Inquiry, an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.</li> </ol> <hr style="border: 0.5px solid black; margin-top: 20px;"/>	<p style="font-size: small; margin-top: 10px;">Appeal Decision APP/X5210/A/02/1095059</p> <hr style="border: 0.5px solid black; margin-top: 5px;"/> <p style="font-weight: bold; font-size: x-small; margin-top: 5px;">The Main Issue</p> <ol style="list-style-type: none"> <li>6. I take the view that the main issue in this appeal is whether the proposal would result in a harmful effect on the supply of employment sites in the Borough.</li> </ol> <p style="font-weight: bold; font-size: x-small; margin-top: 5px;">The Planning Policy Framework</p> <ol style="list-style-type: none"> <li>7. Local policy is provided by the Camden Unitary Development Plan, adopted in March 2000. The Plan contains a number of strategic policies. Of these, Policy SHG1 indicates that in the exercise of its planning duties, the Council will regard housing as the priority land use within the Borough and seeks to secure additions to the Borough's housing stock wherever possible. Policy SHG5 confirms the need to provide 9,135 additional residential units in the Borough between 1987 and 2001. In its explanation of this policy, the Unitary Development Plan says that the achievement of this provision is dependent upon land and premises coming forward with potential for redevelopment or conversion. Another strategic policy, SEC3, indicates that the Council will support the provision of a range of premises suitable for a variety of business activities.</li> <li>8. Of the more detailed policies in the Unitary Development Plan, Policy HG9 seeks to give effect to the Council's strategic housing policies by encouraging the change of use of surplus buildings to housing subject to conformity with other policies and also achieving the Council's standards for development. In a similar vein, Policy HG8 encourages the fullest use to be made of under-utilised sites for housing. On the employment front, Policy EC3 seeks to retain premises suitable for employment use and will only permit a change of use where the accessibility, size, location and condition of the premises is unsuitable for continued employment use. To ensure an adequate supply of good quality, accessible accommodation for small businesses, Policy EC5 indicates that the loss of existing small firm accommodation will be resisted.</li> <li>9. At city wide level, the policies of the Draft London Plan are about to be the subject of a public inquiry. It has reached a stage, therefore, where its policies can be given a limited degree of weight. Policy 3A.1 of the Draft London Plan indicates that 850 new dwellings are required in the Borough each year with a total of almost 17,000 new dwellings by 2016. At national level, PPG3 "Housing" stresses the importance of using previously developed land for new housing, while PPG4 "Industrial and Commercial Development and Small Firms" recognises that the juxtaposition of incompatible uses can cause problems.</li> </ol> <p style="font-weight: bold; font-size: x-small; margin-top: 5px;">Inspector's Reasoning</p> <p style="font-weight: bold; font-size: x-small; margin-top: 5px;">The Effect on the Borough's Supply of Employment Sites</p> <ol style="list-style-type: none"> <li>10. The appeal premises comprise a single storey, flat roof small building located on the north-eastern side of Grafton Road. The building is currently occupied by a scaffolding business. Most of the building is used for the storage of roofing materials and scaffolding poles, clamps and boards, while there is a small office constructed on a gantry above the storage area.</li> <li>11. The building lies within a small group of mixed uses along a short stretch on this side of the street. Immediately to the north-west of the appeal premises is a two storey building, 132-134 Grafton Road that appears to be in office use on both floors. On the other side of the appeal premises is a recently constructed four storey block of apartments, 126 Grafton Road. On the far side of this is a four storey building, 116-124 Grafton Road, with offices</li> </ol> <hr style="border: 0.5px solid black; margin-top: 20px;"/> <p style="text-align: center; font-size: x-small; margin-top: 5px;">2</p>
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- on the ground and first floors and self contained residential accommodation on the second and third floors. Further along the road lies 104-108 Grafton Road, a three storey office building. Between this and a railway viaduct carrying the North London line over Grafton Road is a small building, 108A, currently in use as a car repair agency.
12. Outside of this small area of mixed use, Grafton Road is residential in character. Beyond the adjoining offices, 132 – 134 Grafton Road, the north-eastern side of the street is flanked by rows of two and three storey houses, while a housing estate comprising three and four storey blocks of flats and maisonettes occupies the opposite side of the street. To the south, beyond the railway viaduct, residential properties line both sides of Grafton Road.
  13. Although the Unitary Development Plan makes it clear that housing is the priority within the Borough and that opportunities will be taken to add to the Borough's housing stock wherever possible, this does not mean that little regard should be had to the Plan's other objectives. Clearly, an important objective is to retain a range of employment sites and premises to meet the needs of business. In weighing the need to safeguard sites for employment purposes against the need to bring forward new housing, assistance is provided by the Plan's employment policies.
  14. Policies EC3 and EC5 identify the types of employment sites that particularly need to be protected. The reasons and explanations to the former points out that while there are numerous smaller sites in the Borough, there is a very limited supply of larger sites over 1,000 square metres. The reasons and explanation of the latter indicates that although the demand for floorspace varies and there is a need to provide and retain a range of sites, it will be important to provide units of between 50 and 120 square metres to meet the needs of businesses that are starting up and small businesses.
  15. The appeal building has a gross floor area of 309 square metres. The premises are, thus, well below the size of site that Policy EC3 mainly seeks to protect and above the size of small business units that Policy EC5 seeks to either provide or retain. In my view, there is, therefore, no particular policy imperative for safeguarding premises of the size represented by the appeal building. On the contrary, the building falls into the size of site that Policy EC3 suggests is in ample supply within the Borough.
  16. Policy EC3 also provides assistance in assessing proposals for the redevelopment or change of use of employment land and buildings to a non-employment use. Such proposals will be permitted where sites are unsuitable for continued employment use when considered against a number of factors. In respect of accessibility, I accept the Council's point that Grafton Road is wider than Spring Place, the parallel street to the north-east, where in recent years there have been a couple of appeals involving changes of use of employment land to residential development (Appeal Refs. APP/X5210/A/96/268242 and 00/1052256). However, the main routes away from this part of Grafton Road are narrow. Access northwards is limited for long parts of the day, so traffic has to go south along Grafton Road towards the principal road network or eastwards along Holmes Road. Both roads are narrow where it can be difficult for two larger vehicles to pass. To gain access to the building, scaffolding lorries have to reverse across the pavement. If more than one lorry has to be loaded at the same time, then loading has to take place within the road. This is far from satisfactory. If the premises were to continue to be used for storage, it could pass to a company that has goods delivered or collected by very large lorries, which would have to be unloaded in the street.

17. Another factor is size. I have already referred to the size of the appeal premises not being within the ranges that the local policy identifies as being in short supply and needing to be safeguarded. It is similar in size to 7 Spring Place, which the Inspector in that appeal found unnecessary to be retained for its employment potential. The small size of the appeal premises means that it is unlikely to have any significant employment potential. In this respect, I note that the current use of the site as a scaffolder's yard gives rise to only one person being employed in the office and this on a part-time basis. The scaffolders load up their own vehicles in the morning and often return in the afternoon, having spent much of the day away at building sites.
18. In respect of location, the use of the premises as a scaffolder's yard has become an undesirable neighbour in a predominantly residential locality and particularly with the recent construction of the adjoining four storey residential block. Activities start on site at an early hour in the morning with the loading of scaffolding, a noisy operation. The coming and going of vehicles first thing in the morning is also a source of noise and disturbance. As there is no noise insulation within the building, inside activities could also lead to noise and disturbance. Its continued use for storage could lead to the building remaining an undesirable neighbour.
19. As for condition, from my inspection of the premises I concur with the appellant's opinion that this cheaply built building constructed in the immediate post war years is in a poor condition. It is not in a state that would allow it to be easily converted or adapted. Its floor to ceiling height is unsuitable for conversion to offices, sources of natural light are limited and it does not possess the structural strength to allow it to have additional floors added.
20. Assessed against the factors referred to in Policy EC3, I take the view that the appeal premises are unsuitable for continued use for employment purposes.
21. There is nothing in local policy terms, therefore, that require this site to be kept for employment purposes. On the contrary, the evidence in this case points to the unsuitability of continuing to use this site for employment related development. The redevelopment of the site for residential purposes would contribute to meeting the Borough's housing target, the achievement of which depends on windfalls, such as the appeal proposal, coming forward. The site is eminently suitable for use for residential development when assessed against the sequential test set out in PPG3. The proposal uses previously developed land within the urban area, it makes use of existing physical and social infrastructure and it enjoys ready access by means of transport other than the car to jobs, shops and other services. The proposal also meets other PPG3 tests. It is developed at an appropriate density for a location close to an existing centre, Kentish Town, which enjoys good public transport links. It also makes much lower parking provision than the maximum suggested by national policy. This will act as an encouragement for those occupying the proposed apartments to use alternative means of transport to the car.
22. Other benefits would also accrue from the proposed scheme of redevelopment. The proposal would have a significant benefit in terms of improvement to the townscape. A drab utilitarian building would be replaced by a building that in height and proportions would blend in with the neighbouring buildings, especially the recently erected adjoining block of apartments. The proposal would also remove a potential source of noise and disturbance from a predominantly residential environment. Another storage use of the premises could involve visits from large lorries and unloading and loading in the street.

There are no conditions restricting the storage use of the premises. Thus, such activities could take place in the very early hours of the morning or late at night to the detriment of the amenities of those living nearby.

23. I conclude, therefore, that the proposal would have no material effect upon the supply of employment sites within the Borough. As such, the proposal does not conflict with Unitary Development Plan Policies EC3 and EC5. On the other hand, the use of the site for residential development would fully comply with Unitary Development Plan Policies SHG1, HG8 and HG9.

#### Conditions

24. I have considered the conditions that were put forward at the inquiry by the Council in the event that the appeal were to be allowed. In addition to the standard condition setting out a time limit for the commencement of development, the Council suggests a condition requiring the submission of details of external materials to be used in the development. I agree that such a condition is needed. It is important that the development should blend in with surrounding development. A number of other conditions were also discussed at the inquiry. To avoid overlooking from one window facing another across the light well at the rear of the development, I agree that a condition is needed to require these windows to be fitted with obscure glass. To minimise on-street parking, I also agree that a condition is needed to require the parking provision shown on the submitted drawings to be brought into use before the new residential units are occupied.

25. In addition, the submitted drawings show the provision of lockable cycle lockers and cycle racks in the ground floor parking area. In my view, such provision is important if the use of alternative means of travel to the car is to be encouraged. Accordingly, I am imposing a condition requiring the lockers and racks to be provided before the new residential units are occupied.

#### Other Matters

26. I have taken into account all other matters raised at the inquiry and in the written representations, but none is sufficient to outweigh my conclusions on the main issues in this appeal.

#### Conclusions

27. For the reasons given above, I consider that the appeal should succeed and I shall exercise my powers accordingly.

#### Formal Decision

28. In exercise of the powers transferred to me, I allow the appeal and grant planning permission for the demolition of an existing storage building (Class B8) and the construction of a 5 storey building to provide 7 residential units and 5 car parking spaces at 128 – 130 Grafton Road, Kentish Town, London NW5 in accordance with the terms of the application (Ref. PEX 0200219) dated 31 January 2002, and the plans submitted therewith, subject to the following conditions:

- 1) The development hereby permitted shall be begun before the expiration of five years from the date of this decision.

- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) No residential units hereby permitted shall be occupied until the facing rear windows on the second and third floors shown on drawing No. 776/AP 01a have been fitted with obscure glass, the details of which have been previously submitted to and approved in writing by the local planning authority.
- 4) No residential units hereby permitted shall be occupied until the five car parking space shown on drawing No. 776/AP 01a for five cars have been laid out. Thereafter, the space shall be retained solely for the parking of vehicles.
- 5) No residential units hereby permitted shall be occupied until the cycle lockers and cycle racks shown on drawing No. 776/AP 01a have been provided. Thereafter, the lockers and racks shall be retained solely for the storage and parking of cycles.

#### Information

29. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
30. An applicant for any approval required by a condition attached to this permission has a statutory right of appeal to the Secretary of State if that approval is refused or granted conditionally or if the authority fails to give notice of its decision within the prescribed period.
31. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

*Alan D Robinson*

Inspector