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## Appeal Decision

Site visit made on 11 September 2018

**by R Norman BA (Hons) MA MRTPI**

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

**Decision date: 6<sup>th</sup> November 2018**

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**Appeal Ref: APP/X5210/W/18/3203681**  
**78 Malden Road, London NW5 4DA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Marc Gershon, Misuma Limited against the Council of the London Borough of Camden.
  - The application Ref 2017/4992/P, is dated 7 September 2017.
  - The development proposed is 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).
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### Decision

1. The appeal is dismissed and planning permission 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) is refused.

### Procedural Matters

2. Since the submission of the appeal, the new National Planning Policy Framework (the Framework) has been published (July 2018). Both parties have had the opportunity to comment on the revised document and I have taken any comments received into consideration.

### Main Issues

3. The main issues are:
  - The effect of the development on the character and appearance of the West Kentish Town Conservation Area; and
  - The effect of the proposed outbuilding on the nearby tree.

## Reasons

### *Character and Appearance*

4. The appeal site is located on Malden Road and comprises a four storey, mid-terraced property which has been used for flats. The site is located within the West Kentish Town Conservation Area. It is set within a row of terraces which display a high degree of uniformity in terms of their designs and materials with regards to the front elevations. The West Kentish Town Conservation Area Appraisal and Management Plan identifies that the wider terrace makes a positive contribution to the Conservation Area.
5. The proposed development would convert the existing flats to provide 4 flats and would see the refurbishment of the existing property. It would involve the addition of a mansard roof, rear extensions, the provision of a terrace, an outbuilding to the rear garden and cycle storage to the front of the property.
6. The proposed mansard roof would be set behind the existing parapet. The parapet and chimneys would be retained. I acknowledge that the design of the proposed mansard roof has been informed by the Council's Planning Guidance (CPG1: Design). The immediate terrace of dwellings, of which the appeal site forms part of, have largely unaltered roof lines with the butterfly roof style and front parapets being predominant. I noted some examples of mansard roofs in the vicinity of the appeal site however these were few in number.
7. The Appellant has identified 18 examples of mansard roofs present which are on Malden Road itself, some of which are on different groups of terraces, or have been granted planning permission. Some of the examples provided are partially visible from the street and there are some visible from the rear of the appeal property also. However, I do not know the specific circumstances of these other approvals therefore I am unable to determine if these are wholly comparable to the appeal proposal. Within this immediate terrace, I note the example of No 66 and the previous Inspector's report. Whilst this did accept a mansard roof into this terrace, I note that the design differs from the proposal, with the mansard at No 66 being set back from the front parapet. As such, I do not find this to be wholly comparable to the appeal scheme which would be set further forward than that of No 66 and as such would be more dominant.
8. Whilst the appeal site is in proximity to other mansard roof extensions, the appeal property sits within a group of terraces which are largely unaltered in terms of roof extensions. Of those identified by the Appellant, the Council have advised some of the planning permissions have lapsed. Furthermore, the appeal property is located towards the centre part of this group of terraces, set some way from the end terraces. Accordingly, I find that due to the location of the property and the lack of many other similar roof arrangements in this immediate group of buildings, the introduction of the proposed mansard roof would appear dominant and incongruous within the terrace. This would not be sufficiently mitigated by the retention of the parapet which would restrict some, but not all, of the views.
9. The development also proposes the addition of a cycle store to the site frontage. This would involve the excavation of part of the existing stepped lightwell and the introduction of a cycle storage area with hardstanding above. This would sit at a similar level to the street, thus infilling the existing area over and above the existing arrangement.

10. Along this part of Malden Road the properties have distinctive open lightwells and are largely harmonious in this regard. Very few have introduced enclosed structures. I appreciate the need to provide suitable cycle storage to encourage alternative modes of transport. However, despite the excavation to allow it to be set down, the introduction of the cycle store would be noticeable in contrast to the existing uniform arrangement of open and visible frontages and would obscure the lower ground floor elevation. Accordingly, I find that the proposed arrangement would be out of character with its surroundings.
11. A Basement Impact Assessment (BIA) has been undertaken in relation to the appeal proposal and the Appellant has identified that, in terms of the public highway, the proposal would only excavate 200mm to allow for the cycle store. The BIA concludes that a formal monitoring system should be employed during construction to give early indication of excessive ground movements. In addition the Legal Agreement submitted during the course of the appeal included the intention to proceed with Basement Approval in Principle and associated contribution.
12. The Council have identified that the submitted BIA required additional information in relation to a construction programme, structural engineering information, a ground movement assessment and an arboricultural assessment. However, I consider that on the basis of the information provided to date, the remaining requirements could be reasonably conditioned.
13. The Council have raised no concerns with regard to the proposed rear extension, and have concluded that this element of the proposal would not harm the character and appearance of the Conservation Area. I have no evidence before me which would lead me to disagree with this view as a result of its design, scale and location.
14. For the above reasons, I find that the proposed mansard roof and alterations to the front lightwell would result in a development that would appear incongruous and out of keeping with the prevailing character and appearance of this part of Malden Road. It would therefore result in harm to the character and appearance of the West Kentish Town Conservation Area. I consider that this harm would be less than substantial however, this would not be outweighed by the benefits of providing two additional units of accommodation due to the limited number of new units provided.
15. Accordingly I find that the proposed development fails to comply with Policies D1 and D2 of the Camden Local Plan (2017) (Local Plan) and Policies 7.4, 7.6 and 7.8 of The London Plan (2016) which collectively require high quality design in development that respects local context and character and preserves or enhances the historic environment, amongst other things. It would also fail to comply with the guidance within the Camden Planning Guidance 1: Design (2018) which also seeks to preserve and enhance Camden's architectural heritage and conservation areas.

#### *Impact on Adjacent Trees*

16. The proposal includes the construction of an outbuilding located to the rear part of the garden. The outbuilding would be located adjacent to the rear and side boundaries of the site. There is a tree located in the adjoining garden which would be in proximity to the proposed outbuilding.

17. The Appellant has identified a number of other similar outbuildings present within this group of terraces which are also close to boundary walls. I therefore agree that the principle of an outbuilding in this location would be acceptable. However, with these other examples it is not clear if there were any issues with adjoining trees and accordingly I cannot be certain that these are directly comparable to the appeal proposal. The proximity of the tree to the proposed outbuilding would be likely to result in the outbuilding being located over the trees roots. I have had regard to the Arboricultural Report, Tree Constraints Plan and Arboricultural Impact Assessment that has been submitted and I consider that the necessary tree protection requirements could be reasonably conditioned.
18. I therefore find that the proposed development would comply with the requirements of Policies A3, D1 and D2 of the Local Plan and Policies 7.4 and 7.21 of the London Plan insofar as they require development to respond to natural features and preserve trees which contribute to the character and appearance of a conservation area.

#### *Other Matters*

19. The Council raised concerns over the lack of legal agreement relating to a Basement Approval in Principle Application and to secure car free housing. During the course of the appeal a signed Legal Agreement has been provided dated 27<sup>th</sup> September 2018, which provides for the car free housing provisions and Basement Approval in Principle Application as required by the Council.
20. I have had regard to the submitted agreement however, as I am dismissing the appeal for the above reasons, it is not necessary for me to consider this matter in further detail as the provisions of the legal agreement would not outweigh the harm I have identified above.
21. I have had regard to the internal space sizes identified by the Appellant. However this matter is not disputed by the Council who raise no concern with the internal sizes of the development proposed. I have little evidence before me that would lead me to conclude that there would be harm in this regard.
22. I note the Appellant's dissatisfaction with the time taken for the Council to determine the application and the information that was included on the Council's website. These are matters for the Appellant to take up with the Council and it is therefore not necessary for me to conclude on these issues.

#### **Conclusion**

23. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be dismissed.

*R Norman*

INSPECTOR