

328 E-H Kilburn High Road, London, NW6 2QN

TITLE:
Appeal Statement

DATE:
17.07.2018

WRITTEN BY:
Tom Webster

AUTHORISED BY:
Nicky Ottaway

REVISION:
1.0

REFERENCE:
FL11102

Contents

1.0	INTRODUCTION	1
2.0	DESCRIPTION OF THE APPEAL SITE AND SURROUNDING AREA	3
3.0	PLANNING HISTORY	4
4.0	THE PROPOSAL	5
5.0	PLANNING POLICY CONSIDERATIONS	6
6.0	ASSESSMENT OF APPLICATION PROPOSALS	10
7.0	CONCLUSION	18

1.0

INTRODUCTION

1.1

These Grounds of Appeal have been submitted in support of a planning appeal against Camden Borough Council's decision to refuse permission for the demolition of existing bar/restaurant (Sui Generis) and erection of a four storey mixed use building that included a commercial unit (A1-A4) at ground floor level, and 8 residential units (C3) at first, second and third floor level. The residential apartments comprise 4 x 1 bed, 3 x 2 bed and 1 x 3 bed flats with associated roof terraces to the front and rear.

1.2

The seven reasons for refusal cited within the Council's decision notice, are:

"The proposed development, by virtue of its height, mass, scale and design, would be detrimental to the character and appearance of the adjoining terrace and the wider area, contrary to policies G1 (Delivery and location of growth), D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.

The proposed development, by virtue of re-landscaping and redeveloping the Site of Importance for Nature Conservation would result in the loss of protected land and would harm the biodiversity and ecology of the site, contrary to policies A2 (Open Space) and A3 (Biodiversity) of the London Borough of Camden Local Plan 2017 and Policy 7.18 of The London Plan 2016.

The proposed cycle parking, by reason of its design and amount would discourage the ownership and use of cycles as a sustainable form of transport, contrary to Policy T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017.

The proposed development, in the absence of a legal agreement for car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies T1 (Prioritising walking, cycling and public transport), T2 (Parking and Car Parking) and A1 (Managing the impact of development) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.

The proposed development, in the absence of a legal agreement to secure a construction management plan and a financial contribution for construction management plan monitoring, 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 G1 (Delivery and location of growth), A1 (Managing the impact of development), T3 (Transport Infrastructure), T4 (Sustainable movement of goods and materials), DM1 (Delivery and monitoring), A4 (Noise and Vibration) and CC4 (Air quality) of the London Borough of Camden Local Plan 2017.

1.0

INTRODUCTION

1.2

The proposed development, in the absence of a legal agreement to secure a construction management plan and a financial contribution for construction management plan monitoring, 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 G1 (Delivery and location of growth), A1 (Managing the impact of development), T3 (Transport Infrastructure), T4 (Sustainable movement of goods and materials), DM1 (Delivery and monitoring), A4 (Noise and Vibration) and CC4 (Air quality) of the London Borough of Camden Local Plan 2017.

The proposed development, in the absence of a legal agreement to secure highway contributions to undertake repair works outside the application site, would fail to restore the pedestrian environment to an acceptable condition, contrary to Policies T1 (Prioritising walking, cycling and public transport) and T3 (Transport Infrastructure) of the London Borough of Camden Local Plan 2017.

The proposed development, in the absence of a legal agreement to secure a reappraisal of viability to provide affordable housing once the development is completed would fail to make a contribution towards the supply of additional affordable housing within the Borough, contrary to Policies H4 (Maximising the supply of affordable housing) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017."

1.3

Within this submission, we will address the above in conjunction with any issues raised by the Council in the officer's report.

1.4

In light of the Council's decision, we consider the following to be the key issues:

- Principle of the redevelopment
- The design of the building
- Relationship with Site of Importance for Nature Conservation
- Cycle Storage & Car Free Housing
- Planning Obligations

2.0

DESCRIPTION OF THE APPEAL SITE AND SURROUNDING AREA

- 2.1 The appeal site comprises a single storey building with a flat roof that is screened by a parapet wall. The building operates as a restaurant/public house (A3/A4 Use) and there is a canopy that projects out from the front façade, allowing for an outdoor eating and drinking area.
- 2.2 The footprint of the property has been extended over the years through single storey structures to the rear which the Council consider to be lawful, given the number of years they have been there; they pre-date the year 2000, when the appellant bought the site.
- 2.3 The site is located in-between three storey terraced properties (to the north) and Brondesbury railway bridge (to the south). To the rear of the site is *CaB106 Iverson Road* Site of Importance for Nature Conservation (SINC). Technically, part of the appeal site sits within the north eastern part of the SINC, but in practice this land has been used as storage space and for a reinforced concrete retaining wall to support the railway embankment, for at least 18 years. It, therefore, does not provide any ecological value, with the exception of the trees (which are to be retained as part of this proposal).
- 2.4 The built form of Kilburn High Road is varied and diverse, and recent planning permissions opposite and next to the appeal site have increased the size of properties along the street. The existing single storey building on the appeal site sits in splendid isolation as the only single storey building on this part of Kilburn High Road.
- 2.5 The building is not listed but faces Brondesbury Conservation Area, which is inside Brent Borough Council's boundary line.

3.0

PLANNING HISTORY

3.1 The following planning applications are relevant to this appeal:

2015/4993/P - First floor extensions and creation of a roof terrace bar (A4) to be used in connection with the ground floor mixed restaurant/bar use (Sui Generis). *Refused on the 11 April 2016 on the grounds of unacceptable impact on amenity of neighbouring residents.*

2005/3393/P -Variation of condition 01 of planning permission granted on 17/5/05 (for the retention of the change of use of nos. 328 E and H to a mixed restaurant/bar sui generis use) and condition 01 of planning permission granted at appeal on 8/3/2001 (for the retention of the change of use from Class A1 to Class A3) to extend the opening hours from midnight to 01.00hrs on Sundays, 01.00hrs to 02.00hrs on Mondays-Thursdays and 02.00hrs to 03.00hrs on Fridays and Saturdays - *Granted on 26 September 2005.*

2004/3312/P - Retention of the change of use of nos. 328E and H from Class A1 to a mixed restaurant/bar use (Sui Generis) as an extension to the existing restaurant/bar use in 328F and G; the removal of condition 3 (restricting the numbers of tables and chairs on the forecourt of units 328F and G) of planning permission ref: PWX0002647R1, allowed on appeal on 8th March 2001; the retention of alterations to shopfront of no.328H and a retractable canopy to all shopfronts of 328E-H - *Granted on 17 May 2005.*

2003/0847/P - Retention of a change of use from Class A1 (retail) to Class A3 (food and drink) as an extension to the existing restaurant bar in 328E-G Kilburn High Road, including retention of alterations to the shopfront - *Withdrawn on 28 July 2004.*

PWX0002647 - Planning permission for the "Retention of the change of use from Class A1 retail to Class A3 food and drink, together with the retention of a new shopfront and the retention of a single storey rear extension" – *It was refused with enforcement action recommended on 23 November 2000. The reason for refusal was based on the change of use resulting in harm to the character, function, vitality and viability of the area. An appeal was subsequently allowed under written representations on 08/03/2001 ref: APP/X5210/A/00/1055276. The outcome of the appeal made the existing use lawful.*

4.0

THE PROPOSAL

4.1

The proposal seeks to demolish the existing single storey property and replace it with a four storey brick built mixed-use building. The roof will be a combination of gable ended and mansard design with dormer windows and solar panels.

4.2

The new building will accommodate 8 flats at first floor and above (C3 Use) and permission is also sought for 216sqm of flexible A1-A4 Use on the ground floor. The residential accommodation schedule is:

Level	1 bed	2 bed	3 bed	Total
First Floor	2	1		3
Second Floor	2	1		3
Third Floor		1	1	2
				8

4.3

Four of the apartments will have their own private external amenity space by virtue of rear terraces. Provision will also be made for 31 cycle parking spaces and bin storage spaces.

4.4

The existing single storey structures to the rear of the building will be demolished and replaced by ground floor level landscaping. A significant proportion of the fourth storey roof will be green and contain a variety of plants. All of the ground floor roof will be green. Bird and bat boxes will also be distributed on the roof and at the rear of the property.

5.0

PLANNING POLICY CONSIDERATIONS

- 5.1 The Government published the National Planning Policy Framework (NPPF) in 2012, which is the over-arching planning policy document in the country. This document is designed to encourage suitable and sustainable design in planning.
- 5.2 Sitting below the NPPF, at regional level, is the London Plan, which is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2036. It forms part of the development plan for Greater London.
- 5.3 The local plans of the London boroughs are required to be in general conformity with the London Plan, and its policies guide decisions on planning applications by councils and the Mayor. The most recent version of the London Plan, which has been updated since the 2011 publication to include various alterations and the most up to date document, was published in March 2016.
- 5.4 In addition to promoting the increase in housing supply and providing residential space standards, the London Plan seeks to maximise the potential of sites and policy 3.4 states that the Mayor will, and boroughs should, ensure that development proposals achieve the maximum intensity of use compatible with local context, design principles and with public transport capacity.
- 5.5 These principles are reinforced in chapter 7 and policy 7.6 (architecture) reiterates that the Mayor will, and boroughs should, seek to ensure that developments should optimise the potential of sites as well as promote high quality inclusive design and respect local context, history, built heritage, character and communities and be attractive to look at.
- 5.6 The Camden Local Plan was adopted in 2017 and, as part of the Examination in Public process, had to demonstrate that it is in line with the NPPF and the London Plan.

5.0

PLANNING POLICY CONSIDERATIONS

5.7

National Planning Policy

Under the NPPF, it is incumbent upon decision-making authorities to support applications for sustainable development wherever possible and without delay, particularly where that development will help meet the challenges of housing need. In its general approach to development, the National Planning Policy Framework sets out 12 core principles at paragraph 17 which include the following.

5.8

That planning should:

- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth.
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.
- Not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives.

5.9

The NPPF attaches importance to the design of the built environment, which is seen as a key aspect of sustainable development, indivisible from good planning, that should contribute positively to making places better for people.

5.10

The document reiterates in chapter 7 that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings.

5.0

PLANNING POLICY CONSIDERATIONS

5.11

Regional Planning Policies:

Within the most up to date local plan policy map, the application site has no active designations.

5.12

The following London Plan Policies are relevant to this appeal

Policy 3.4 Optimising Housing Potential

Policy 7.4 Local Character

Policy 7.6 Architecture

Policy 7.8 Heritage Assets and Archaeology

5.0

PLANNING POLICY CONSIDERATIONS

5.13 The following Camden Core Strategy Policies are relevant to this appeal.

Policy G1 Delivery and location of growth
Policy H1 Maximising housing supply
Policy H4 Maximising the supply of affordable housing
Policy H6 Housing choice and mix
Policy H7 Large and small homes
Policy C5 Safety and security
Policy C6 Access for all
Policy E1 Economic development
Policy E2 Employment premises and sites
Policy A1 Managing the impact of development
Policy A2 Open space
Policy A3 Biodiversity *Policy A4* Noise and vibration
Policy D1 Design
Policy D2 Heritage
Policy CC1 Climate change mitigation
Policy CC2 Adapting to climate change
Policy CC3 Water and flooding
Policy CC4 Air quality
Policy CC5 Waste *Policy T1* Prioritising walking, cycling and public transport
Policy T2 Parking and car-free development
Policy T3 Transport infrastructure
Policy DM1 Delivery and monitoring

Supplementary Planning Policies Camden Planning Guidance

CPG 1 Design (updated March 2018) - paragraphs 4.9 to 4.13
CPG 2 Housing (updated March 2018)
CPG 3 Sustainability (updated March 2018)
CPG 6 Amenity (2018)
CPG Biodiversity (2018)
CPG 7 Transport (2011)
CPG 8 Planning obligations (update March 2018)
CPG Town Centres (2018)

6.0

ASSESSMENT OF APPLICATION PROPOSALS

6.1

Principle of the redevelopment

The appeal site constitutes an important, inner urban brown field site with a very high level of public transport accessibility (according to the Transport for London Planning Information database, it has a PTAL level of 5 - see *Appendix A* of the Planning Statement). These characteristics would suggest that, given the acute shortage of housing land in London, the contribution the site could make to meeting need should be optimised.

6.2

A shortage of housing has consequences. It means that families across all income brackets are not appropriately housed, businesses cannot find an appropriately located workforce, transport sustainability is harmed and the economy's prospects overall is at risk.

6.3

The above are all key planning issues that Camden Borough Council are mindful of. This is why policy H1 of their Local Plan states that the Council wishes not only to meet their housing target of 16,800 homes between 2016/17 and 2031 but to exceed them.

6.4

The appellant, who has employed an award winning architectural practice (B + R Architects), has produced a modern context driven scheme for the site which is of high architectural quality and which falls well within the density ranges stated as appropriate for the site. The expectation of the London Plan is that the density will be around 200 -700 hr/ha. This proposal is around 518hr/ha, exactly within the middle of the proposed density range. This is an important requirement of policy and the Local Plan makes it clear that developments will be expected to meet that density requirement.

6.5

The size of each residential apartment either meets or exceeds the space standards requirement of the London Plan. The apartments are also dual aspect; allowing for plenty of light to accommodate the generous amount of amenity space. Therefore, the standard of living for the future occupiers would be excellent.

6.0

ASSESSMENT OF APPLICATION PROPOSALS

- 6.6 There is common ground between the appellant and the Local Planning Authority that the appeal proposal will not materially impact on neighbouring amenities (the case officer, stated in paragraph 6.13 of his delegated report that “similarly with regard to outlook, the proposed size, scale and height of the proposal is not considered to have an unacceptable impact on the outlook of any neighbouring properties at the site”. There is also common ground that the development will be energy efficient and compliant with the relevant London and Local Plan policies.
- 6.7 The Council wishes to encourage a diverse and vibrant economic base in the borough, supporting sectors and businesses that can adapt to changing circumstances in order to ensure long term economic sustainability of Camden. In line with this, the flexible uses being proposed on the ground floor (A1-A4) meet exactly the requirements of the Council in this urban location, which is home to Camden’s second largest shopping area. This is another limb of the proposal that the Council agreed with in their delegated report.
- 6.8 As set out in more detail in the ‘ecology’ section below, the proposal will also significantly increase the levels of biodiversity on the site.
- 6.9 Therefore, the proposal is an appropriate optimisation of the site, and will help Camden Borough Council to respond to local housing and economic need, in accordance with the NPPF, the London Plan and the Core Strategy.

6.0

ASSESSMENT OF APPLICATION PROPOSALS

6.10

The Design of the building

The fundamental characteristics of the area are 21 Century construction and a 19 Century railway engineering structure, with a fine collection of Victorian three storey terraced properties amongst them.

6.11

As with many parts of London, which is a mixed and diverse City in architectural terms, Kilburn High Road contains a variety of architectural designs. There isn't a rigid hierarchy of sizes and ordered scale in place. Directly opposite (359-363 Kilburn High Road) the appeal site is a 5 storey corner building with a flat, recessed, roof. To the north of the site is a row of three storey brick built terraced properties with dormer windows. Immediately to the south of the site is Brondesbury Railway Bridge and a four storey building behind (328 Kilburn High Road).

6.12

The appeal site in its current form, with its single storey building and structures, represents an odd juxtaposition with the surrounding 3, 4 and 5 storey buildings, and is a site that is full of potential. Having looked at the site constraints and the neighbouring properties, the appellant has opted for a design that is site specific and not generic.

6.13

The proposed scheme is a product of pre-application discussions with the Council and revised drawings. The scale and design of the proposed replacement building has been carefully designed to respond to the character of the local area and officer comments (see pages 9 and 10 of the Design and Access Statement to see the evolution of the design).

6.14

The proposed height and massing strategy is the correct approach for this site, as it engages with the key contextual factors and good placemaking principles. The ground floor façade is given up to entrance points to the flat and retail/restaurant uses along with floor to ceiling windows, which will help deliver an active frontage.

6.15

The first and second floor, with vertical fenestration and attractive reveals, repeat each other up until the top floor, which has a pitched roof and flat roofed dormer windows to the front. The architect has used sharp corner treatment and rectangle shaped windows which, together, give the building an elegance.

6.0

ASSESSMENT OF APPLICATION PROPOSALS

6.16

The rear of the building is the area of dispute between the appellant and the Council. The appellant strongly contests the Council's assertion that the rear part of the building reads as being an extension, an allegation made by the case officer in paragraph 4.6 of his delegated report. He wrote:

"As stated above, the proposed size and design of the street-facing façade of the replacement building is considered to represent a contextually sensitive and appropriate interpretation of the prevailing built form and reads as a continuation of the adjoining buildings in the terrace. Therefore, in this regard, the proposed rearward projection appears as a four storey extension to the terraced building, and whilst officers acknowledge that this is a new build development, the Council's guidance with regard to rear extensions is considered applicable in this instance."

6.17

It is our view that applying a policy expressly written for extensions to a brand new building (that reads as being one building), is fundamentally the wrong approach to have taken. The short point, is that the Council has misdirected planning policy, in this instance.

6.18

The appellants also contest the Council's assertion that the rear part of the building reads as a "monolithic block". It is difficult to see how the Council has arrived at this conclusion, as the rear element consists of staggered levels, window reveals, private balconies and a roof set back from the eaves. It is the anthesis of a monolithic block.

6.19

The site is an unusual shape and the appellant and architect have looked at the effect of the building in this context, the way the building is orientated, and how it responds to Kilburn High Road. As with the front façade, the rear part of the building is also four storey's high. It has a mansard style roof formation that, along with the pitched roof above the front façade, helps to create a massing and roofscape that is sufficiently varied and interesting.

6.0

ASSESSMENT OF APPLICATION PROPOSALS

6.20

The proposal is comparative in scale to 328 Kilburn High Road, which frames the other side of the railway bridge that adjoins the appeal site. Whilst the proposed building has a greater depth at the back than 328 Kilburn High Road, the rear element has been set well in from the boundary line and the architects have purposefully adopted a staggered approach to break up the scale and massing of the building. Consequently, it would not read as a stocky, bulky, building. Instead, it will read as a well built, handsome streetscape design that optimises the space without crowding the railway bridge or dominating the views from the high street below. In fact, given the angle of the site and the presence of a railway bridge, the south facing facade will only be glimpsed at from the street below.

6.21

The overall approach to the design of the elevations is a positive one. All of the elevations are well ordered and proportioned, which will provide a degree of rhythm and vertical emphasis to the street. These are all characteristics which are encouraged by the NPPF and the local planning policies.

6.22

In summary, the proposed elevations, materials (details of which are set out in the DAS) and detailing will combine to create a well-designed scheme that enhances the setting. It represents a significant improvement on the existing single storey building(s) and will make a positive contribution to Kilburn High Road.

Relationship with Site of Importance for Nature Conservation

6.23

The proposal represents a significant improvement to the ecological value of the site. There will be great benefit in landscaping the ground floor and providing green roofs at first and fourth storey level and providing bat and bird boxes. Not only will there be a net gain of habitat area of 86sqm over the official amount of SINC space (145sqm), it will, in practice, introduce 201sqm of new habitat area.

6.24

The appellant respectfully disagrees with the Council that, for a habitat to be successful, it needs to be continuous (paragraph 3.4 of the delegated report). The bat and bird boxes will encourage additional wildlife to the area and make a contribution to the SINC that is lasting, and the landscaping/vegetation areas will be attractive to birds, animals and bugs and bees in a setting that has long since been urbanised.

6.0

ASSESSMENT OF APPLICATION PROPOSALS

6.25

Whilst the rear structures were originally erected without consent (prior to the appellant owning the site), they are now lawful and, in the absence of this development coming forward, would remain in place. Therefore, the proposal will bring a great deal of nature back to a site that has been entirely used for commercial and storage purposes for a substantial amount of time.

6.26

The green roofs will also improve the thermal performance of the building and keeping the use of heating to a minimum, as well as being visually attractive.

6.27

The presence of 201sqm of habitat space will not be harmful to the SINC or result in the further erosion of the SINC and is, instead, another welcome aspect of a high quality, neighbourly development in a central London borough, one of the most dense and developed part of the country.

Cycling and Car Free housing

6.28

The proposal will be a car free development and will encourage sustainable travel behavior -not one off street car parking space is proposed, and an obligation in the Unilateral Undertaking will secure this. By contrast, 31 cycle storage spaces (12 internally and 19 externally) are proposed in a development that is situated next to a train line, 200m from an underground line and directly opposite a bus stop.

6.29

During the course of the application, the appellant was advised by the officer that cycle bays for the commercial units would also be needed, and that a different type of cycle storage provision would be required in line with the design requirements set out on pages 52 and 53 of CPG7 (Transport). This policy stipulates that cycle storage space should comprise either be Sheffield or Camden stands.

6.30

In the event that the Inspector supports the scheme, the appellant is very happy to have a condition attached that reflects these cycle space requirements. It should be noted that the appellant was prepared to amend the plans to reflect these cycle space requirements during the application, but the appellant was advised by the officer that it wouldn't be necessary, as a revised plan could be secured by condition. This is why the cycle parking forms a reason for refusal.

6.0

ASSESSMENT OF APPLICATION PROPOSALS

6.31

Planning Obligations

The officer's report details the planning obligations that will be required. The appellant intends to address those in a section 106 agreement/unilateral undertaking in order to deal with the relevant reasons for refusal. The agreement/undertaking will be submitted in accordance with the appeal timetable.

7.0

CONCLUSION

- 7.1 A key objective of planning is to bring forward development that is appropriate and in the right place. This is made clear in the National Planning Policy Framework (NPPF), which states that there should be a presumption in favour of sustainable development.
- 7.2 Overall, the proposal will provide vital well designed modern housing at a location where densification of housing delivery and urban form is required. It will do so whilst enhancing the street scene, preserving residential amenity and improving the ecological value of the site.
- 7.3 It will also provide a flexible ground floor use which will help deliver employment growth, strengthen the local economy and add to the vitality of the area. The permission will be implemented if granted planning permission.
- 7.4 For these reasons, the proposal represents a sustainable development that complies with national, regional and local policy. Therefore, the Inspector is respectfully requested to allow this appeal.

Thank you for viewing our Planning Statement.

If you have any queries or would like to discuss anything further with us please don't hesitate to get in contact. Our details can be found below.