

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL TO BE DETERMINED BY WAY OF A HEARING

APPELLANT'S STATEMENT OF CASE

**APPEAL BY OAKLEY SQUARE DEVELOPMENT AGAINST THE REFUSAL
OF PLANNING PERMISSION BY THE LONDON BOROUGH OF CAMDEN
FOR:**

**FULL APPLICATION: 2019/4012/P – FOR THE ERECTION OF TWO STOREY
ROOF EXTENSION AT THE 5TH FLOOR TO PROVIDE SEVEN FLATS WITH
ROOF TERRACES FACING CROWDALE ROAD AND OAKLEY SQUARE,
INCLUDING THE ERECTION OF A LIFT SHAFT, CYCLE STORE AND
ALTERATION TO THE WASTE STORE**

SITE AT ST MATTHEWS LODGE, 50 OAKLEY SQUARE, LONDON, NW1 1NB

LOCAL PLANNING AUTHORITY REF: 2019/4012/P

20th December 2019

**DP9
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London SW1Y 5NQ**

1.0 INTRODUCTION

1.1 This Statement of Case is submitted on behalf of Oakley Square Development (the ‘Appellant’) in accordance with Rule 6 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 in respect of its appeals against the refusal of planning permission by the London Borough of Camden for:

(I) Full planning application for the erection of two storey roof extension at 5th floor level to provide 7 flats (1 x 3-bed, 5 x 2-bed and 1 x 1-bed) with roof terraces facing Crowndale Road and Oakley Square (Class C3), including erection of lift shaft (to the rear) and cycle store and alteration to waste store (2019/4012/P).

1.2 The London Borough of Camden refused the application on six grounds. The first reason for refusal, which is outlined below, relates to issues of design and heritage. Reason one is outlined below:

“The proposed two storey roof extension, by reason of its prominent location, height, bulk and design, would be detrimental to the appearance of the host property and would fail to preserve or enhance the character and appearance of the conservation area or preserve the setting of adjacent listed buildings contrary to Policy D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.”

1.3 The five other reasons for refusal relate to the absence of a Section 106 legal agreement. These reasons related to the:

- (1) Lack of a legal agreement to secure a Construction Management Plan
- (2) Lack of a legal agreement to secure car-free housing
- (3) Lack of a legal agreement securing a contribution to affordable housing

- (4) Lack of a legal agreement to incorporate sustainability measures into the building design
 - (5) Lack of a legal agreement to secure an energy efficient design.
- 1.4 A hearing is requested for this appeal as the matters that this appeal address are design related which is a subjective topic. A hearing will allow for this issue to be discussed in detail.

2.0 DESCRIPTION OF THE APPEAL SITE AND SURROUNDING AREA

- 2.1 50 Oakley Square is a five-storey brick purpose-built block of apartments, called St Matthews Lodge, located in the Borough of Camden. The building contains 24 studio apartments and 11 larger apartments. The surrounding area is predominantly residential and is located immediately adjacent to the Camden Town Conservation Area, bordered by a series of Grade II listed buildings, private residential houses, the Listed Working Men's College to the North, Oakley Square to the East, the Old Vicarage to the South and further terraces to the West.
- 2.2 The existing building was constructed in 1982, replacing the church of St Matthews, which was damaged during the War. The building has a flat roof with a protruding lift shaft and a motor room to the rear. The fourth-floor oriel windows project significantly from the building façade. The current building is lower in height than the surrounding buildings.
- 2.3 Oakley Square Gardens lies to the immediate South East, within the garden directly opposite the site is Oakley Square Gardens Lodge (Grade II). A further row of traditional town houses lie to the North on the opposite side of Crowndale Road, with the Working Mens College (Grade II Listed). Bordering the sites southern boundary is the Old Vicarage (Grade II Listed). Godwin and Crowndale Court, extending to 8 storeys lies opposite the building across Oakley Square.

3.0 RELEVANT PLANNING HISTORY OF APPEAL SITE AND SURROUNDING AREA

3.1 There are a number of minor applications in relation to the site such as works to trees and the construction of a conservatory.

3.2 In March 2019, planning permission was granted for the erection of a single storey roof extension at the 5th floor of 50 Oakley Square to provide for five new flats with roof terraces facing Crowndale Road and Oakley Square, including the erection of a cycle store and alteration to the waste store (Planning Reference 2018/4230/P).

4.0 APPEAL PROPOSAL

4.1 The proposed development will provide for an additional seven residential units by increasing the height of the building at the fifth floor by two storeys, the reconfiguration of the waste and recycling storage area, dedicated cycle parking and a DDA compliant lift. The additional floors would be smaller in scale and be set back from the existing building's elevations.

4.2 In summary, the proposed improvements to the building include:

- Seven new apartments (1 x 3-bed, 5 x 2-bed and 1 x 1-bed flats);
- 18 new cycle parking spaces;
- Enlarged bin storage area;
- DDA compliant lift, with access from the car park;
- Refurbishment of main entrance, including a new ramped access;
- A new lift shaft; and
- Energy efficient plant.

4.3 The roof top addition addresses the unbalanced top-heavy appearance of the existing building. The proposed cladding of the additional storeys will consist of a mixture of brick and zinc flashing, with aluminum windows.

5.0 RELEVANT PLANNING POLICY

The Statutory Development Plan

5.1 The statutory development plan for the purposes of Section 38 (6) of the Planning and Compulsory Purchase Act 2004 comprises:

- (1) The London Plan (2011) - the Spatial Development Strategy for Greater London adopted by the Mayor of London in July 2011.
- (2) The Camden Local Plan- adopted on July 2017.

Other Policy Documents

5.2 The following documents are also relevant material considerations for the development:

- (1) The National Planning Policy Framework (2019)
- (2) Mayor of London: Housing Supplementary Planning Guidance (SPG) (March 2016)
- (3) Camden Planning Guidance- Amenity SPG (2018)
- (4) Camden Planning Guidance- Housing SPG (2018)
- (5) Camden Planning Guidance- Design SPG (2018)
- (6) Camden Planning Guidance- Planning SPG (2018)

5.3 Whilst not adopted, the Intend to Publish version of the London Plan (2019) is relevant to the proposed development.

5.4 While 50 Oakley Square is excluded from the Camden Town Conservation area, the *Camden Town Conservation Area Appraisal and Management Plan (2007)*, is of relevance to the site, given its close locality to the Conservation Area Boundary.

6.0 CASE FOR THE APPELLANT

6.1 The case for the Appellant focuses on the first reason for refusal given by the Council in its formal decision notice, as detailed at 1.2 of this report, namely the adverse impact on the setting of the neighbouring listed buildings and the associated failure to preserve or enhance the character and appearance of the Conservation Area, being contrary to Policy D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.

6.2 Submitted with the Statement of Case are two items of Evidence, prepared to respond to the matters raised within the Delegated Report. The supplementary evidence includes:

- Appeal Statement: Heritage- Prepared by Nick Collins of KM Heritage
- Architectural Appeal Statement- Prepared by Steven Clinch of Echlin

6.3 The information presented within this Statement of Case will demonstrate that the proposal is acceptable in terms of design and heritage and that the design is not contrary to Policy D1 and D2 of the London Borough of Camden Local Plan 2017.

6.4 The evidence submitted with the Statement of Case, prepared by Nick Collins, From KM Heritage and Steven Clinch, Head Architect at Echlin, outlines that the Conservation Area will be enhanced through the proposed development, concluding that there will be no harm to the existing building or to the surrounding listed buildings. Contrary to the summary of the Delegated Report, the Evidence presented by Mr Collins concludes by expressing the professional opinion that the development will provide positive benefits to the Conservation Area, being consistent with Policy D1 and D2 of the London Borough of Camden Local Plan 2017.

6.5 The evidence presented within this Statement of Case demonstrates that the proposal complies with all material national, regional and local planning policies as outlined within the next sections. The evidence concludes noting that:

- The two-storey scheme makes a positive contribution to the existing building and is sympathetic to the host building¹
- The proposed addition is acceptable and enhances the current building and makes a positive contribution to the conservation area whilst respecting the surrounding listed buildings²
- The building will preserve and enhance heritage assets and townscapes and will deliver heritage benefits and public realm benefits for Camden and its residents³.

Policy D1 of the London Borough of Camden Local Plan 2017 (The Local Plan).

6.6 Policy D1 of the Local Plan deals with the design and sets out a number of policy tests to ensure a high quality of design in developments. The proposed development will result in a building that:

- is sustainable, both in terms of construction and climate change adaptation (Policy D1(c) and (d)),
- comprises of high-quality materials (Policy D1(e)),
- is more accessible (Policy D1(g)),
- promotes health (Policy D1(h)),
- is secure (Policy D1(i)),
- incorporates outdoor amenity and preserves open space (Policy D1(j) and (l)),

¹ Paragraph 6.1 of Architectural Appeal Statement

² Paragraph 6.2 of Architectural Appeal Statement

³ Paragraph 62 of Heritage Appeal Statement

- Incorporates high quality landscape design (Policy D1(k)),
- provides a high standard of accommodation (Policy D1(n)),
- integrates building services and equipment (Policy D1(o)).

6.7 The matters of Policy D1 that are in dispute as outlined within the Delegated Report relate to:

- respecting local context and character (Policy D1(a)),
- preserving or enhancing the historic environment (in accordance with Policy D2) (Policy D1(b)),
- integrate well with the surrounding environment, improving movement, contributing positively to the street frontage (Policy D1(f)),
- Preserves local views (Policy D1(m)).

6.8 Policy D1(b) outlines that development should preserve or enhance the setting of the historic environment. As noted within the Heritage Appeal Statement and within the assessment against Policy D2 in the following sections, the proposed building extension will enhance the setting of the surrounding historic environment. Mr Collins notes that the extension will “*complete a building that has an unfinished appearance and will thus sit more comfortably with its neighbours.*” (Paragraph 62 of the Appeal Statement: Heritage). As such it is considered that the proposed development is consistent with both Policies D1(a) and (b).

6.9 The Delegated Report notes that *a two-storey addition would most likely always result in this building appearing top heavy and over bulky.* Mr Collins notes in his Evidence that he disagrees with this statement and in his opinion believes the contrary, where the proposal will more successfully balance the existing Building (Paragraph 30 of the Appeal Statement: Heritage). Paragraph 31 of Mr Collins evidence further supports his differing opinion.

- 6.10 Comments received from the Camden Conservation Area Advisory Committee regarding the application noted that *“the new added volume can be accommodated but the design should be better refined and articulated to be more sympathetic.”* The increase in height and volume was not the matter of contention, rather, their comments relate to matters of taste.
- 6.11 In the accompanying Architectural Appeal Statement, Mr Clinch summarises noting that the proposed building will result in a *“positive contribution to the Conservation Area, whilst respecting the surrounding area.”* As such it is considered that the proposed development is consistent with Policies D1(a), (b), (f) and (m). The rationale for this assessment is further explained within submitted evidence.

Policy D2 of the London Borough of Camden Local Plan 2017.

- 6.12 Policy D2 aims to preserve and where appropriate enhance Camden’s diverse heritage assets. 50 Oakley Square is not a designated heritage asset, not within a Conservation Area, not a listed building or has any archaeological designations.
- 6.13 Policy D2(g) states, in regard to development proposals that sit outside of a Conservation Area, that *“The Council will...resist development outside of a conservation area that causes harm to the character or appearance of that conservation area.”*
- 6.14 50 Oakley Square is not considered to be a heritage asset itself, which is notably why the Conservation Area excludes the building from its boundaries.
- 6.15 The Evidence provided by Mr Collins outlines the assessment of “harm” with regards to the proposed design and the “substantial harm” test in accordance with the National Planning Policy Framework.
- 6.16 Mr Collins evidence notes that *“The proposed scheme would clearly not lead to ‘substantial’ harm to any heritage asset. I also do not believe that the proposals*

*will lead to 'less than substantial' harm. While the setting of various designated heritage assets will be altered to a modest degree by the proposed scheme, this will not detract from their special interest as a listed building or as a conservation area."*⁴

- 6.17 Based on the evidence provided by Mr Collins, it is considered that the proposed building extension will not result in harm to the conservation area and as such will maintain the conservation area in accordance with policy. Furthermore, the additional public benefits (which are discussed in Paragraphs 6.20 to 6.25 below) tip the planning balancing more decisively in favour of the proposal. This assessment contradicts the assessment provided within the Delegated Report.
- 6.18 The proposed development does not result in the demolition of the post war building on the site, rather the development will result in the existing building being more fit for purpose (in terms of access and sustainability) as well as increasing housing supply within Camden. As Mr Collins assessment concludes that the proposal will not result in harm to the character or appearance of the Conservation Area, it is in our opinion that this proposal should be approved.
- 6.19 As noted within Architectural and Heritage Evidence submitted with the Statement of Case, the proposed two storey extension is assessed to have a low/no level of harm. As such, the development is not considered to "*cause harm to the character or appearance of that conservation area.*"⁵ As such, the proposal is in accordance with Policy D2 of the London Borough of Camden Local Plan 2017.

Public Benefits of the Proposal

- 6.20 Housing is a priority land use within the Local Plan. The Appellant agrees with the commentary within the Delegated Report that the provision of 7 additional flats provided through the proposed development would help meet Camden's housing needs.

⁴ Paragraph 55 of Heritage Evidence

⁵ Policy D2- Local Plan

- 6.21 The Delegated Report notes that the public benefit of the proposal is the addition of two units (calculated as five units being provided through the approved planning permission, minus the seven additional proposed units through the planning application subject to the Appeal).
- 6.22 However, it is our opinion that the proposal and any consequential benefits to the public should be considered on its own merits and not in conjunction with any previous applications. The proposal makes provision for 7 good-sized, high quality apartments which exceed the minimum areas with decent private outdoor amenity areas. In addition, the proposal includes a compliant DDA access to all units and parking facilities, improved cycle parking, improved bin storage and contributions to affordable housing within the Borough.
- 6.23 The approved development may not be built due to financial viability. Therefore, any assessment regarding public benefit should take into account the entirety of the proposed scheme regardless of the approved planning permission.
- 6.24 Various reports have been commissioned (as submitted with the Planning Application) to ensure the proposal does not impact on surrounding properties. These encompass Daylight/Sunlight, Overshadowing, Noise, Air Quality Assessment and Energy and Sustainability considerations.
- 6.25 In summary, the overall public benefits of the proposal are significant.

7.0 STATEMENT OF COMMON GROUND

- 7.1 Having regard to the Council's reason for refusal, it is anticipated that a Statement of Common Ground can be agreed with the local planning authority to cover the following matters that should not be in dispute between the parties.
- Description of site and surrounding area;
 - Planning history of the appeal site and surrounding area;

- Description of the appeal proposals;
- Schedule of drawings and other documents which accompanied the appeal application;
- Relevant policy framework to include national, regional and local planning policy;
- Daylight and sunlight impacts;
- Over shadowing impacts;
- Noise impacts;
- Transport impacts;
- Access;
- Retention of a tree at the boundary of the site; and
- Impacts on Air quality.
- The requirement for a legal agreement in accordance with Section 106 of the Town and Country Planning Act 1990 regarding obligations to secure:
 - (1) A Construction Management Plan
 - (2) Car-free housing
 - (3) a contribution to affordable housing
 - (4) Incorporation of sustainability measures into the building design
 - (5) An energy efficient building design.

7.2 Where required, Planning Obligations in accordance with Section 106 to address these issues can be drafted in due course and circulated prior to the hearing.

8.0 DOCUMENTS ATTACHED

- Appeal Statement: Heritage- Prepared by Nick Collins of KM Heritage
- Architectural Appeal Statement- Prepared by Steven Clinch of Echlin