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## Appeal Decision

Site visit made on 9 December 2020

**by M Aqbal BA (Hons) DipTP MRTPI**

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

**Decision date: 9 April 2021**

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**Appeal Ref: APP/X5210/W/20/3256668**

**Flat A, 200 West End Lane, London NW6 1SG**

- 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 Ronnie Chitiyat, Grovehill Properties Limited against the decision of the Council of the London Borough of Camden.
  - The application Ref 2020/0782/P, dated 17 February 2020, was refused by notice dated 20 April 2020.
  - The development proposed is conversion to create 3x flats (C3) consisting of 2x 2B3P and 1x 3B4P. Erection of rear extension at 1st floor, and balcony. Erection of roof extension involving rear dormer and roof terrace and 3x front rooflights. Installation of bin and bike stores in rear garden.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are whether the proposed development would preserve or enhance the character or appearance of the West End Green Conservation Area ('WEGCA'); and whether the proposal would support a car-free development and secure adequate mitigation for any construction related impacts on highway safety.

### Preliminary matter

3. A Unilateral Undertaking ('UU') dated 27 November 2020 and made under Section 106 of the Town and Country Planning Act 1990 (as amended) and Section 16 Greater London Council (General Powers Act) 1974 was submitted by the appellant during the course of the appeal. I shall return to this undertaking later.

### Reasons

#### *Character and appearance*

4. The appeal site is a mid-terrace property located along a row of properties between Fawley Road and Lymington Road. It comprises four-storeys with a commercial use at ground floor level and a maisonette occupying the upper floors. This property and the wider terrace block it forms a part of are within the WEGCA and the Fortune Green and West Hampstead Neighbourhood Plan area.

5. The West End Green Conservation Area Appraisal and Management Strategy identifies West End Lane as the busy commercial 'spine' of the area. This is mainly characterised by the distinct architecture of generally well-preserved monumental mansion and terraced blocks, comprising commercial uses at ground floor with upper floors largely occupied by residential accommodation. Forming a largely unaltered building, the appeal property along with the wider terrace, positively contributes to the character and appearance of the WEGCA.
6. To facilitate the conversion of the existing residential accommodation, a rear dormer extension and roof terrace are proposed. The extension would be lower than the ridge of the existing roof and would be set-in from the boundary with 202 West End Lane, making it a subordinate addition to the roof. Overall, the siting, form and appearance of the new dormer extension would not be dissimilar to others along the terrace, and its slightly larger scale in comparison to some of these extensions, would not be particularly apparent because of its recessed location.
7. The proposed roof terrace would be of a similar size to others nearby. To mitigate any overlooking from the roof terrace, a glass privacy screen is proposed along the shared boundary with 198 West End Lane and a lower glass balustrade is shown along its front edge. Because of the limited extent of these additions, their lightweight construction, and part concealment by the existing parapets, the materiality and use of these would not be inappropriate to the character or appearance of the building or area.
8. I have taken account of the Council's Planning Guidance 'Altering and extending your home'. Although the proposed dormer extension does not meet the dimensions specified in this, in relation to the siting of dormers, this is guidance. In any event, for the reasons stated above, no harm would result from it. Therefore, this and the roof terrace would assimilate with the design of the appeal property and the wider terrace.
9. The submitted scheme includes an extension to the existing first-floor, rear outrigger. The rear elevations of the properties along the wider terrace, including the appeal property are broadly similar in form and appearance. Most notably, these include outriggers at first floor level, which generally extend partway along the rear elevations, are arranged in pairs, and incorporate small windows. These give the rear elevations a degree of rhythm and uniformity.
10. Despite utilising matching materials, the extended outrigger would be taller and wider than those either side of it and the existing window would be replaced by a larger one. Consequently, the extended outrigger would be noticeably different in scale and design to those either side of it. In particular, it would unbalance the symmetry with the outrigger it is paired with, which would erode the existing general arrangement and uniformity of these rear elevations and would appear incongruous. This incongruity would be exacerbated by the mid-terrace location of the appeal property.
11. The larger first floor extension at 190a West End Lane is along the end of the terrace next to a much larger building to the south, which limits its prominence. An extension to the outrigger at 192a West End Lane has also been approved. However, there is no certainty that this will be implemented, I therefore attach limited weight to this. In any event, on the information before me, this would reflect the design and scale of the extension at 190a West End

- Lane. As such, the approved schemes are not directly comparable to the proposal before me.
12. Although the proposed first floor, rear extension would be largely screened in views from the highway, the requirement for development proposals to preserve or enhance the character or appearance of the Conservation Area applies whether or not the proposal is in public view or not.
  13. For the above reasons, the proposed first floor, rear extension would harm the character and appearance of the appeal property, and the significance of the WEGCA would be harmed.
  14. The harm the proposal would cause to the significance of the WEGCA would be less than substantial. Paragraph 196 of the National Planning Policy Framework ('the Framework') states that where a proposal would lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal. In this case the proposal would deliver additional residential units. However, despite the need to boost housing supply locally and nationally, the benefits derived from two additional units would be limited.
  15. Having special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area<sup>1</sup>, despite finding the harm to be less than substantial, I still attach significant weight to this. Such harm can be outweighed by public benefits. Having given limited weight to the public benefits identified in this instance, these are not sufficiently forceful to outweigh the less than substantial harm that I have identified.
  16. Drawing on the above reasons, the proposed first floor, rear extension would conflict with Policies D1 and D2 of the Camden Local Plan (2017) and Policies 2 and 3 of the Fortune Green and West Hampstead Neighbourhood Plan (2015) ('NP'). Collectively, these policies seek to secure high quality design in developments which respect local character and context and preserve or enhance heritage assets. In particular, Policy 2 of the NP requires extensions to be in character and proportion with its context and setting, including the relationship to any adjoining properties.

#### *Car-free development and highway safety*

17. Policy T2 of the LP requires all new developments in the Borough to be car-free. In accordance with this Policy the Council seeks to use legal agreements to ensure that future occupants are aware they are not entitled to on-street parking permits. Although the Council's various planning guidance<sup>2</sup> requires these to be in the form of bi-lateral agreement, pursuant to certain statutory powers, these are guidance and do not preclude the appellant from submitting a UU under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) and Section 16 Greater London Council (General Powers Act) 1974 to secure a car-free development.
18. The submitted UU would ensure that occupiers of the residential units would be made aware that they are not entitled to apply for a Residents Parking Permit or buy a contract to park within any car park owned, controlled, or licensed by the Council. This should be effective in limiting private car ownership, which is

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<sup>1</sup> Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>2</sup> Camden Planning Guidance: Transport and Camden Planning Guidance, Developer contributions.

the most likely source of local parking stress and would support the aims of Policy T2 of the LP. This would also promote more sustainable and efficient forms of transport, in accordance with Policy T1 of the LP.

19. The site is located along a busy highway. As such, servicing activities during construction would have an impact on road users if not adequately mitigated and managed. The submitted UU would secure a Construction Management Plan and an implementation support financial contribution in accordance with the Council's requirements. These measures would ensure that the development would minimise impacts associated with servicing and the movement of goods and materials during the construction process to limit any unacceptable detriment to highway safety. As such, the obligations of the UU would manage the impacts of the development, in accordance with the aims of Policy A1 of the LP.
20. For the above reasons, the obligations set out in the UU are directly related to the development and reasonably related in scale and kind. As such the UU passes the tests set out in the Framework and satisfies the requirements of regulation 122 of The Community Infrastructure Levy Regulations 2010.
21. The Council's third reason for refusal cites Policy T4 of the LP. However, the requirement for a Construction Management Plan under this Policy is specific to larger developments. Therefore, this Policy is not relevant to the proposal before me.

### **Other matters**

22. There is some dispute between the main parties over the Council's requirement for a 'monitoring fee' in respect of the UU and the level of this. Nevertheless, this matter does not go to the heart of the planning merits of the appeal, which I am dismissing. Therefore, it is not necessary for me to consider this any further.

### **Conclusion**

23. I have found that in light of the submitted UU the proposal would support the Council's aims to secure a car-free development and would mitigate any construction impacts with regard to highway safety. However, I have also found that that the proposal would harm the character and appearance of the WEGCA, for this reason and overall conflict with the development plan, I conclude that the appeal should be dismissed.

*M Aqbal*

INSPECTOR