



## Appeal Decision

Site Visit made on 31 March 2021

**by John Dowsett MA, DipURP, DipUD, MRTPI**

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

**Decision date: 21<sup>st</sup> May 2021**

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**Appeal Ref: APP/X5210/W/20/3256457**

**4 John Street and 5-6 King's Mews, London, WC1N 2ES**

- 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 James Moores against the decision of the Council of the London Borough of Camden.
  - The application Ref 2019/5502/P, dated 29 October 2019, was refused by notice dated 14 May 2020.
  - The development proposed is described as: Renewal of planning permission for temporary retention of rear car port for two years.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The planning application form describes the proposal as "Renewal of planning permission for temporary retention of rear car port for five years". I am advised that during the course of the consideration of the planning application the proposal was changed by agreement to retention of the car port for two years rather than the five initially sought, and that the planning application was determined on that basis. I have, therefore, also considered the appeal on the basis that the proposal sought to renew the planning permission for a further two years.
3. The new, replacement, London Plan was published and came into effect on 2 March 2021. This now forms part of the development plan for the area. The views of the parties were sought on whether there were any policies in the London Plan 2021 that may affect their respective cases. The Appellant advised that they considered London Plan Policies GG2, D3 and D11, relating respectively to making the best use of land; optimising site capacity; and safety, security, and resilience to emergency, were relevant to the consideration of the appeal proposal. I have been provided with copies of these policies and would agree that they are of relevance to the appeal before me. The Council did not offer any comment. I have, therefore, determined the appeal based on the Policies in the Camden Local Plan 2017 (the Local Plan) that are cited on the decision notice and Policies GG2, D3 and D11 of the London Plan.

## **Main Issues**

4. The main issues in this appeal are:
  - The effect of the proposal on the character and appearance of the local area bearing in mind the extent to which it would preserve or enhance the character or appearance of the Bloomsbury Conservation Area.
  - The effect of the proposed development on the efficient use of land and the supply of housing in the area, having regard to the development plan.

## **Reasons**

### *Character and appearance*

5. The appeal site is located within the Bloomsbury Conservation Area. The conservation area covers an area encompassing approximately 160 hectares extending from Euston Road in the north to High Holborn and Lincoln's Inn Fields in the south and from Tottenham Court Road in the west to King's Cross Road in the east.
6. Its significance is derived from the evidence that it provides of a period of London's early expansion northwards, dating from around 1660 and which continued to around 1840. The progression of development across the Conservation Area illustrates the changes in taste and style in domestic architecture that occurred throughout the seventeenth, eighteenth, and nineteenth centuries. It additionally provides evidence of the building techniques of those times. The conservation area also illustrates the approach taken to the planning and layout of the area through a hierarchy of different scales of streets with clear differences between the wider major arterial routes which define and cross the conservation area; the grid of primary, relatively spacious, intersecting streets; narrower secondary streets; rear mews and narrow connecting lanes.
7. In the vicinity of the appeal site the historic built form predominantly comprises eighteenth and nineteenth century townhouses of three to four storeys, built in long terraces with rear mews. The Bloomsbury Conservation Area Character Appraisal (CACA) area sets out that although originally primarily residential the area now has a mixed commercial and residential character. Many of the townhouses are now in office use and on Gray's Inn Road and Theobalds Road, near the appeal site, shop fronts and commercial uses are present at ground floor level.
8. The CACA notes that mews are a common theme across the area and provided rear service access to the larger buildings fronting the principal spaces of the conservation area. Their distinctive character derives from the smaller scale of the street, the footprint and scale of the mews buildings, which are mostly of two storeys with their elevational treatment reflecting their original use with large ground-floor openings and smaller openings on the upper floors, and building lines immediately behind the street edge. Historically within the mews there have been a mix of uses, although these are now becoming increasingly residential in character.
9. Given the above, I find that the significance of the conservation area, insofar as it relates to these appeals, to be primarily associated with the evidential value it provides of the urban layout and building forms and designs of the time it

was developed, and how that has evolved since due to changing needs and population demographics.

10. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act) requires that, in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area.
11. It was clear from my observations during the site visit that Kings Mews has undergone substantial redevelopment over time. Nonetheless, it retains the visual characteristics of a mews in terms of the built form and height of the buildings together with the form and hierarchy of the openings in the elevations. Consequently, the historic visual relationship of ancillary service buildings with large houses is still clearly discernible in its current built form.
12. In contrast the appeal proposal is both much lower than the prevailing building height and set back from the strong and consistent building line that is present on both sides of Kings Mews and which is characteristic of both Kings Mews and other mews streets nearby. The street frontage of the carport is formed from a series of closely spaced, vertical, steel panels that are coloured black and which have the visual appearance of a tall gap-boarded fence, at ground level. The set back, upper, part is formed from close boarded, horizontal, timber cladding. Whilst the lower section contains three garage doors and a pedestrian gate, due to the nature and form of the materials used, there is little differentiation and the street frontage is perceived as a generally blank and uniform feature, unrelieved by any articulating elements.
13. The built form, materials, and external appearance of the car port is markedly different in appearance from the surrounding buildings. Although some of these are replacements for earlier buildings, all the other buildings in the street reflect the historic characteristics of mews buildings elsewhere in the surrounding area, which the appeal proposal does not. As a result, the car port appears as an incongruous feature in the street scene and detracts from its character and appearance.
14. The appellant suggests that the fact that a non-time limited listed building consent for the works was granted by the Council in 2017 addresses the concerns of the Council regarding heritage assets. I have not been provided with a copy of this listed building consent. However, a listed building consent would only relate to the effect of the works on the special architectural or historic interest of the principal listed building, in this case numbers 2 to 9 John Street. The listed building consent would not relate to the effect of works the character and appearance of the conservation area, which is a separate matter that falls to be considered as part of the planning application that is the subject of this appeal.
15. I have had regard to the fact that the retention of the current structure would not alter the current appearance of the area and accept that this is the case. Nonetheless, I am mindful that planning permission for the carport structure, in both its previous and current form has only ever been granted on a temporary basis on the understanding that it would be replaced by a dwelling house that has an extant planning permission. Whilst the appellant's evidence sets out that it is still the intention to construct the consented dwelling house, there is no compelling evidence before me that this development would be commenced within the two years for which permission is sought. Consequently, there is no

certainty as to when the negative visual effect of the car port structure would be remedied.

16. I have also considered the appellant's point that removing the car port would create a gap in the continuous built up frontage of that side of Kings Mews. I have not been advised whether the previous, temporary, planning permission included a re-instatement clause regarding how the site should be treated following the removal of the car port at the expiry of its term. This notwithstanding, I have no evidence before me that would indicate that the appearance of the site and surrounding area would be demonstrably worse following the removal of the car port. From what I saw when I visited the site, I would agree with the Council's position that a cleared site would allow the relationship between the main house and the mews to be more clearly seen and understood.
17. Given the above, I find that the proposal would fail to preserve the character and appearance and the significance of the conservation area. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal.
18. Paragraph 193 of the National Planning Policy Framework 2019 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 194 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. Given that the effect of the proposal would be limited to within Kings Mews and would be small in scale compared to the overall size of the conservation area, I find the harm to be less than substantial in this instance but, nevertheless, of considerable importance and weight.
19. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The appellant has not identified any public benefits that are derived from the proposal or which would arise from the retention of the car port.
20. Given the above and in the absence of any defined public benefit, I conclude that, on balance, the proposal would fail to preserve the character or appearance of the Bloomsbury Conservation Area. This would fail to satisfy the requirements of the Act, paragraph 192 of the Framework and conflict with Policy D3 of the London Plan 2021 (the London Plan) and policies D1 and D2 of the Camden Local Plan 2017 (the Local Plan) which seek, among other things, to ensure that development is of a high standard of design that has regard to its context and preserves or, where possible, enhances the character and appearance of conservation areas. As a result, the proposal would not be in accordance with the development plan.

*The effect of the proposal on the supply of housing*

21. I am advised that planning permission has previously been granted in 2003 for a scheme which included the construction of a dwelling house on the appeal site. I am also advised that this permission is still capable of being implemented. From the submitted evidence, the planning permissions for the construction and subsequent retention of the car port were granted as an

- interim measure prior to the anticipated further development of the site for a dwelling. This is reflected in the temporary nature of the permissions granted.
22. Policy G1 of the Local Plan seeks to deliver growth in the Borough by securing high quality development and promoting the most efficient use of land and buildings including resisting development that makes inefficient use of the borough limited land. Local Plan Policy H1 seeks to maximise the supply of housing in the Borough by providing at least 16,800 new homes between 2016 and 2031. Policy H1 sets out that self-contained housing is the priority land use of the local plan. The supporting text to the policy defines self-contained houses and flats as homes where all the rooms, including the kitchen, bathroom, and toilet, are behind a door that only one household can use. Criterion C of the policy states that the alternative development of sites identified for housing or self-contained housing through a current planning permission will be resisted unless it is shown that the site is no longer developable for housing.
  23. London Plan Policy D3 expects all development to make the best use of land. Optimising site capacity means ensuring that development is of the most appropriate form and land use for the site. The design-led approach requires consideration of design options to determine the most appropriate form of development that responds to a site's context and capacity for growth. Policy GG2 requires developments to proactively explore the potential to intensify the use of land to support additional homes and workspaces, promoting higher density development, particularly in locations that are well-connected to jobs, services, infrastructure, and amenities by public transport, walking, and cycling.
  24. From the evidence, the new dwelling for which planning permission exists would fall within the definition of a self-contained home. It is also not in dispute between the parties that, ultimately, a residential use of the site is the preferred option. The appellant states that this consented scheme has not proceeded due to the scheme not being economically viable. I have not been provided with any evidence in respect of the viability of the scheme. Nor has any other technical evidence been submitted that would demonstrate that the site is no longer developable for housing. On this basis, the appeal proposal would conflict with criterion C of Local Plan Policy H1
  25. From the evidence before me, it is clear that the car port has been in place for a considerable period of time, in excess of 10 years, and that a series of temporary planning permissions have been granted for it. I accept that the most recent of these also included some additions to the structure, however, this does not open a new chapter in its planning history.
  26. The Planning Practice Guidance (the Guidance) sets out that there are circumstances where a temporary permission may be appropriate, which include where it is expected that the planning circumstances will change in a particular way at the end of the temporary period. It also states that temporary planning permission may also be appropriate to enable the temporary use of vacant land or buildings prior to any longer-term proposals coming forward. The guidance, however, makes it clear that it will rarely be justifiable to grant a second temporary permission except in cases where changing circumstances provide a clear rationale. Further permissions can normally be either granted permanently or refused.

27. The planning permission for the new dwelling has been in place since 2003 and whilst I recognise that there have been fluctuations in the economic climate since then, it was evident from my observations during the site visit that there has been a significant amount of redevelopment within Kings Mews in recent years. No substantiated evidence has been put to me that would indicate that it is not economically viable to develop the site in accordance with the terms of the extant planning permission or that the costs of developing it would exceed the value generated by the development. The degree of redevelopment that has clearly taken place elsewhere on Kings Mews is indicative that similar sites can be developed in a similar manner. Whilst the appellant may not themselves be in a position to progress the development, this does not directly equate to the development itself not being economically viable.
28. In addition, I have not been advised of any technical constraints or abnormal costs that would result in the site being no longer developable for housing. The Council's planning policies and those of the Framework seek to significantly increase the delivery of housing. In this respect, the appeal proposal would run contrary to the Council's policies to increase the housing supply in the borough.
29. I have had regard to the fact that the present car port provides off street parking for the main house at 4 John Street and contributes to the successful rental of this property. I have also noted that the consented scheme for a new dwelling would continue to provide a garage space for this property. There is nothing in the evidence which would indicate that the reduction in parking provision resulting from the development of the new dwelling would make the rental of the main house less attractive. Consequently, whilst I accept that the site currently has a use as parking for 4 John Street, as parking for this house would still be provided were the consented dwelling to be erected, and the site could still be utilised or parking if the current structure were to be removed, this does not add any weight in favour of retaining the current car port contrary to the Council's policies that prioritise the use of land for self-contained housing where an extant planning permission exists.
30. Since the original temporary permission was granted, it has been renewed twice, resulting in the car port being in place for at least 10 years. I have not been advised of any material change in circumstances that has occurred since the previous temporary planning permission was granted, that would indicate that a further temporary period would be appropriate. As I have found that the car port does not preserve the character and appearance of the conservation area, there is no clear justification for granting a further temporary permission.
31. I therefore find that that appeal proposal would not represent the most efficient use of the site and would reduce the potential to deliver new housing in the area. It would conflict with the relevant requirements of London Plan Policies GG2 and D3 and Policies G1 and H1 of the Local Plan.

### **Other Matters**

32. The appeal site is located to the rear of a terrace of houses at numbers 2-9 John Street which collectively are a Grade II listed building [Reference: 1379155]. Section 66(1) of the Act requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building, or



its setting, or any features of special architectural or historic interest which it possesses.

33. I have noted that listed building consent has previously been approved in respect of the proposal. Other than the list description, no substantive evidence has been provided in respect of the significance of this building. It is not wholly clear from the evidence that I have whether the appeal site falls within the curtilage of the listed building or is within its setting. This notwithstanding, from what I saw when I visited the site, although the development that is the subject of the appeal proposal is adjacent to a listed building, it does not diminish the ability to understand or appreciate the significance of the listed building and its features of special architectural or historic interest. I find that the proposal would have a neutral effect on the adjoining listed building. However, this would not overcome the harm that I have found the proposed development would cause to the character and appearance of the conservation area.
34. Local Plan Policies D1 and C5 expect among other matters that developments should minimise crime and anti-social behaviour and the fear of crime and anti-social behaviour. London Plan Policy D11 seeks to ensure that development include measures to design out crime.
35. There is some evidence from the representations of nearby residents that there have been incidents of anti-social behaviour in the area and I note that the appellant states that prior to the erection of the current structure, there were also incidents of anti-social behaviour.
36. There is no evidence that would indicate that any antisocial behaviour that may occur is directly caused by the use of the development that is the subject of this appeal. I accept that the recessed frontage may, however, present an opportunity for partial concealment which could be perceived as threatening and I also saw that there was limited street lighting within Kings Mews. Nonetheless, when I visited the site, the frontage of the appeal site was in a tidy state, as was the remainder of the street, and there were no other obvious signs of anti-social behaviour such as graffiti.
37. With regard to the appellant's point, from the submitted evidence, the previous design of the car port incorporated gates in an essentially similar location to the present frontage and, consequently, it is difficult to see how the present configuration of the proposal has significantly reduced any previously occurring behaviours. If the present structure on the site were to be removed, this would create a larger open area than at present. However, there is no substantiated evidence before me that would lead me to conclude that this would result in a rise in anti-social behaviour or undermine the security of the principal building.
38. There is no compelling evidence that either the appeal proposal directly results in anti-social behaviour, or that the removal of the structure would increase anti-social behaviour in the area. As I am dismissing the appeal for other reasons, that are set out above, I do not consider that making a finding on this matter would be determinative. The retention of the current structure would not reduce any anti-social behaviour that may be occurring and, therefore, could not be a benefit of the proposal. Conversely, there is nothing that would indicate that removing the current structure would cause anti-social behaviour to increase, which would weigh moderately in favour of the proposal.

39. Consequently, neither would overcome the great weight that I have given to the harm to the conservation area and the conflict with the development plan that I have identified and, as a result, neither outcome would alter my conclusions on the main issues, or my overall conclusions on the appeal.

**Conclusion**

40. I have found that the appeal proposal causes harm to the character and appearance of the Bloomsbury Conservation Area, would not represent the most efficient use of the site, and would reduce the potential to deliver new housing in the area. As such it conflicts with the policies in the development plan that are the most important in determining the appeal and no material considerations have been identified that would indicate a decision should be made other than in accordance with the development plan. For the reasons given above, I conclude that the appeal should be dismissed.

*John Dowsett*

INSPECTOR