

APPEAL BY MR THAKKAR

AGAINST THE DECISION OF LONDON BOROUGH OF CAMDEN

FULL PLANNING PERMISSION & LISTED BUILDING CONSENT

**ERECTION OF A DOUBLE PITCH MANSARD ROOF EXTENSION ALONG
WITH ALTERATIONS TO THE FRONT FACADE TO FACILITATE THE
CREATION OF 1 X 2 TWO BED FLAT, RAISING OF THE EXISTING REAR
EXTENSION & RELOCATION OF EXISTING PLANT AT ROOF LEVEL.**

64 LINCOLN'S INN FIELDS, LONDON, WC2A 3JX

PINS REF: TBC

LPA APPLICATION REF: 2020/3104/P & 2020/3723/L

DATE OF DECISIONS: 4 JANUARY 2021

CONTENTS

- 1.0 Site & Surroundings
- 2.0 The Application
- 3.0 Relevant Planning History
- 4.0 National Planning Policy/Legislation
- 5.0 The Development Plan
- 6.0 The Appellant's Case
- 7.0 Summary & Conclusion

APPENDICES

- A. Appeal Statement from 'The Heritage Practice' addressing reason for refusal 1
- B. Addendum to Structural Assessment Report
- C. Draft Unilateral Undertaking addressing reasons for refusal 2 and 3
- D. LPA delegated reports – 2015/1794/P & 2015/2284/L
- E. Appeal Decisions APP/X5210/W/15/3129639 & APP/X5210/Y/15/3129640

1.0 SITE & SURROUNDINGS

- 1.1 In terms of context the appeal site is located within the administrative area of the London Borough of Camden, a Borough in north-west London (partly within inner London) divided into 18 three member wards. The appeal site forms a part of Lincoln's Inn Fields, the largest public square in London, which forms a part of the southern boundary of the borough of Camden bordering the city of Westminster.
- 1.2 The appeal site is located within the Bloomsbury Conservation Area on the west side of Lincoln's Inn Fields, close to the junction with Remnant Street and Gate Street. The host structure is Grade II listed and comprises an early 19th century four storey stucco fronted building with basement. The building is characterised by a square-headed doorway with fanlight and double panelled doors, corbels at the sides of the entrance below a stone first floor balcony with iron balustrade, recessed sash windows with segmental arches at ground floor and ionic pilasters through the first and second floors carrying entablature with dentil coricing.
- 1.3 The building, as a result of historical planning applications, comprises nine residential units. The vaults beneath the front hardstanding area are partially used to house bicycles and plant and storage but are otherwise vacant.
- 1.4 The surroundings are largely characterised by mixed commercial and residential use. The Inns of Court of Lincoln's Inn and Gray's Inn have a unique character in the context of the area and London as a whole. This character is derived from the marked contrast and transition in scale and sense of enclosure experienced when moving through the interconnected spaces comprising landscaped squares, enclosed courtyards, and narrow passageways and lanes with a high volume of pedestrian activity. For over five hundred years the area has been a major centre for the legal profession and for the training of barristers.
- 1.5 Those activities as well as residential use are the two prevalent land uses in the immediate surroundings and thus contribute to the sense of place, emphasised by the large public square opposite.

2.0 THE APPLICATIONS

2.1 Both listed building and full applications were received and made valid by the Council on 18 August 2020. The applications were assigned reference numbers **2020/3723/L** (listed building) and **2020/3104/P** (full).

2.2 The applications sought full planning permission and listed building consent for the erection of a double pitch mansard roof extension along with alterations to the front facade to facilitate the creation of 1 x 2 two bed flat which included the raising of the existing rear extension and relocation of existing plant at roof level.

2.3 The listed building consent application was refused on the 4 January 2021 for the following reason:

1. *The proposal would disturb and destroy historic fabric, harm the plan form of the building, and would disrupt and falsify the historic evolution of the building, causing harm to the special historic significance of the building. The proposal would detract from the overall integrity of the building's special architectural and historic interest and also cause harm to the character and appearance of the Bloomsbury Conservation Area contrary to policies D1 (Design) and D2 (Heritage).*

2.4 The full planning application was refused on the same date, for the same reason, in addition to the following two reasons:

2. *The proposed development, in the absence of a legal agreement securing car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to policies T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.*

3. *The proposed development, in the absence of an affordable housing contribution, would fail to maximise the supply of affordable housing, contrary to policies H4 (Maximising the supply of affordable housing) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.*

2.5 Informative note 2 of the decision states:

Without prejudice to any future application or appeal, the applicant is advised that reason for refusal 2 and 3 could be overcome by entering into a Section 106 Legal Agreement for a scheme that was in all other respects acceptable.

3.0 RELEVANT PLANNING HISTORY

Appeal Site

- 3.1 Full planning permission (**2013/7434/P**) was approved and listed building consent (**2013/7457/L**) granted on 23 January 2015 for the change of use of the building from offices (B1a) to residential use (C3) and the partial demolition, alteration and extension to create nine residential units. The applications were approved subject to conditions and a s106 legal agreement and the development has been lawfully implemented and completed.
- 3.2 On 23 June 2015 full planning permission (**2015/1794/P**) and listed building consent (**2015/2284/L**) was refused for the erection of a single storey mansard roof extension to provide 1 no. 2 bedroom flat. The applications were subsequently dismissed at appeal under references **3129639** and **3129640**. The delegated reports and appeal decisions are attached at **appendices D** and **E**.
- 3.3 Full planning permission (**2017/0870/P**) was refused on 6 October 2017 and later dismissed at appeal (**3188630**) on 7 March 2018 for the change of use of part of the basement (Class C3 Use) to storage facility (Class B8 Use).
- 3.4 Listed building consent (**2017/1496/L**) was granted on 6 October 2017 for the alterations associated with the change of use of part of the basement (Class C3 Use) to storage facility (Class B8 Use).

4.0 NATIONAL PLANNING POLICY/LEGISLATION

The National Planning Policy Framework

4.1 The following paragraphs of the National Planning Policy Framework (hereafter referred to as the NPPF) should be considered in relation to this case:

The presumption in favour of sustainable development:

4.2 Paragraphs 11-16 introduce a presumption in favour of sustainable development. Paragraphs 7, 8 & 14 are helpful in applying this presumption.

4.3 Paragraph 14 sets out how this is to be applied. It states that, “*for decision-taking, this means:*

- *Approving development proposals that accord with the development plan without delay; and*
- *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *Any adverse impacts of doing so would significantly or demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole; or*
 - *Specific policies in the NPPF indicate development should be restricted.”*

Unless material considerations indicate otherwise.”

4.4 The NPPF introduces 3 dimensions to ‘Sustainable development’ (Economic, Environmental & Social - para 7), and advises that they are interdependent and need to be pursued in mutually supportive ways.

4.5 In applying this approach, firstly, development must be considered to be sustainable taking into account all three of the dimensions of sustainable development; a development that is sustainable in only one dimension would not be considered sustainable for the purposes of the presumption. The appellant considers that the development meets all three threads of sustainable development.

4.6 Secondly, the decision-taker is required to consider whether the development accords with the development plan – and if it does planning permission should be granted unless material considerations indicate otherwise. The appellant considers that the development accords with the development plan.

4.7 Thirdly, the decision-taker is required to determine whether the development plan is absent, silent or relevant policies are out-of-date. If any of these apply consent should be granted unless:

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed with the NPPF policies as a whole;*
- *specific policies of the NPPF indicate development should be restricted; or*
- *material considerations indicate otherwise.*

4.8 Section 7 refers to design. Paragraph 58 states that *planning policies and decisions should aim to ensure that developments optimise the potential of the site to accommodate development and create and sustain an appropriate mix of uses.* It states further that *decisions should respond to local character and history.*

4.9 Paragraph 60 states that *planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.*

4.10 Section 8 refers to healthy communities. It states at paragraph 70 that *decisions should plan positively for the provision and use of shared space.*

4.11 Section 12 refers to the historic environment and requires the decision maker to consider whether the proposal sustains and enhances the significance of the heritage asset, making a balanced judgement having regard to the scale of harm or loss and the significance of the heritage asset (paras 131-135).

5.0 THE DEVELOPMENT PLAN

Camden Local Plan 2017

5.1 The Camden Local Plan 2017, together with the Mayor's London Plan, forms the statutory development plan for the Borough. The Local Plan was adopted in June 2017 following examination by an independent planning inspector and covers the period from 2016-2031.

5.2 The reasons for refusal refer to Policies D1, D2, T2, DM1 and H4 of the Local Plan. These are repeated verbatim below:

Policy D1 Design

The Council will seek to secure high quality design in development. The Council will require that development:

- respects local context and character;*
- preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;*
- is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;*

- d. *is of sustainable and durable construction and adaptable to different activities and land uses;*
- e. *comprises details and materials that are of high quality and complement the local character;*
- f. *integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;*
- g. *is inclusive and accessible for all;*
- h. *promotes health;*
- i. *is secure and designed to minimise crime and antisocial behaviour;*
- j. *responds to natural features and preserves gardens and other open space;*
- k. *incorporates high quality landscape design (including public art, where appropriate) and maximises opportunities for greening for example through planting of trees and other soft landscaping,*
- l. *incorporates outdoor amenity space;*
- m. *preserves strategic and local views;*
- n. *for housing, provides a high standard of accommodation; and*
- o. *carefully integrates building services equipment. The Council will resist development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.*

Policy D2 Heritage

The Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens and locally listed heritage assets.

Designated heritage assets

Designed heritage assets include conservation areas and listed buildings. The Council will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and Listed Buildings, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a. *the nature of the heritage asset prevents all reasonable uses of the site;*
- b. *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation;*
- c. *conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- d. *the harm or loss is outweighed by the benefit of bringing the site back into use*

The Council will not permit development that results in harm that is less than

substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm.

Conservation areas

Conservation areas are designated heritage assets and this section should be read in conjunction with the section above headed 'designated heritage assets'. In order to maintain the character of Camden's conservation areas, the Council will take account of conservation area statements, appraisals and management strategies when assessing applications within conservation areas.

The Council will:

- e. require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area;*
- f. resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area;*
- g. resist development outside of a conservation area that causes harm to the character or appearance of that conservation area; and*
- h. preserve trees and garden spaces which contribute to the character and appearance of a conservation area or which provide a setting for Camden's architectural heritage.*

Listed buildings

Listed buildings are designated heritage assets and this section should be read in conjunction with the section above headed 'designated heritage assets'. To preserve or enhance the borough's listed buildings, the Council will:

- i. resist the total or substantial demolition of a listed building;*
- j. resist proposals for a change of use or alterations and extensions to a listed building where this would cause harm to the special architectural and historic interest of the building; and*
- k. resist development that would cause harm to significance of a listed building through an effect on its setting.*

Policy T2 Parking and car-free development

The Council will limit the availability of parking and require all new developments in the borough to be car-free.

We will:

- a. not issue on-street or on-site parking permits in connection with new developments and use legal agreements to ensure that future*

occupants are aware that they are not entitled to on-street parking permits;

- b. limit on-site parking to: i. spaces designated for disabled people where necessary, and/or ii. essential operational or servicing needs;*
- c. support the redevelopment of existing car parks for alternative uses; and*
- d. resist the development of boundary treatments and gardens to provide vehicle crossovers and on-site parking.*

Policy DM1 Delivery and monitoring

The Council will deliver the vision, objectives and policies of the Local Plan by:

- a. working with a range of partners to ensure that opportunities for creating the conditions for growth and harnessing its benefits for the borough are fully explored;*
- b. working with relevant providers to ensure that necessary infrastructure is secured to support Camden's growth and provide the facilities needed for the borough's communities. Information on key infrastructure programmes and projects in the borough up to 2031 are set out in Appendix 1;*
- c. working proactively in its actions as a landowner and by facilitating land assembly where considered appropriate;*
- d. using planning contributions where appropriate to;*
 - i. support sustainable development;*
 - ii. secure the infrastructure, facilities and services to meet the needs generated by development;*
 - iii. mitigate the impact of development;*
- e. secure appropriate scheme implementation (including multi-site developments) and control phasing where necessary;*
- f. working with neighbouring boroughs to coordinate delivery across boundaries; and*
- g. monitoring the implementation of the Local Plan policies and infrastructure provision on a regular basis.*

Policy H4 Maximising the supply of affordable housing

The Council will aim to maximise the supply of affordable housing and exceed a borough wide strategic target of 5,300 additional affordable homes from 2016/17 - 2030/31, and aim for an appropriate mix of affordable housing types to meet the needs of households unable to access market housing.

We will expect a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to residential floorspace of 100sqm GIA or more. The Council will seek to negotiate the maximum reasonable amount of affordable housing on the following basis:

- a. *the guideline mix of affordable housing types is 60% social-affordable rented housing and 40% intermediate housing;*
- b. *targets are based on an assessment of development capacity whereby 100sqm (GIA) of housing floorspace is generally considered to create capacity for one home;*
- c. *targets are applied to additional housing floorspace proposed, not to existing housing floorspace or replacement floorspace; 66 Camden Local Plan | Meeting Housing Needs*
- d. *a sliding scale target applies to developments that provide one or more additional homes and have capacity for fewer than 25 additional homes, starting at 2% for one home and increasing by 2% of for each home added to capacity;*
- e. *an affordable housing target of 50% applies to developments with capacity for 25 or more additional dwellings;*
- f. *for developments with capacity for 25 or more additional homes, the Council may seek affordable housing for older people or vulnerable people as part or all of the affordable housing contribution;*
- g. *where developments have capacity for fewer than 10 additional dwellings, the Council will accept a payment-in-lieu of affordable housing;*
- h. *for developments with capacity for 10 or more additional dwellings, the affordable housing should be provided on site; and*
- i. *where affordable housing cannot practically be provided on site, or offsite provision would create a better contribution (in terms quantity and/ or quality), the Council may accept provision of affordable housing offsite in the same area, or exceptionally a payment-in-lieu.*

We will seek to ensure that where development sites are split or separate proposals are brought forward for closely related sites, the appropriate affordable housing contribution is comprehensively assessed for all the sites together. The Council will seek to use planning obligations to ensure that all parts or phases of split or related sites make an appropriate affordable housing contribution.

In considering whether affordable housing provision should be sought, whether provision should be made on site, and the scale and nature of the provision that would be appropriate, the Council will also take into account:

- j. *the character of the development, the site and the area;*

- k. site size and any constraints on developing the site for a mix of housing including market and affordable housing, and the particular types of affordable provision sought;*
- l. access to public transport, workplaces, shops, services and community facilities; m. the impact on creation of mixed, inclusive and sustainable communities;*
- n. the impact of the mix of housing types sought on the efficiency and overall quantum of development;*
- o. the economics and financial viability of the development including any particular costs associated with it, having regard to any distinctive viability characteristics of particular sectors such as build-to-let housing; and*
- p. whether an alternative approach could better meet the objectives of this policy and the Local Plan.*

Where the development's contribution to affordable housing falls significantly short of the Council's targets due to financial viability, and there is a prospect of viability improving prior to completion, the Council will seek a deferred contingent contribution, based on the initial shortfall and an updated assessment of viability when costs and receipts are known as far as possible.

6.0 THE APPELLANTS CASE

Reason for refusal 1: The proposal would disturb and destroy historic fabric, harm the plan form of the building, and would disrupt and falsify the historic evolution of the building, causing harm to the special historic significance of the building. The proposal would detract from the overall integrity of the building's special architectural and historic interest and also cause harm to the character and appearance of the Bloomsbury Conservation Area contrary to policies D1 (Design) and D2 (Heritage).

- 6.1 The reason for refusal is entirely heritage based, engaging the heritage based policy of Camden's Local Plan. A dedicated statement on heritage grounds, referring specifically to the reason for refusal therefore supports the appeal submission at **appendix A**.
- 6.2 The statement identifies why the appeal proposal and its associated assessment differs from the previously refused/dismissed scheme from 2015 and highlights that the appeal scheme would help to better identify no. 64 as a 17th century survival in a context of other, similarly detailed 17th century buildings. It concludes, evidentially, that the historic fabric of the building can be protected and retained but in any case, if harm is found to accrue, then this would be outweighed by the heritage benefits delivered by the proposals to the listed building, neighbouring highly graded listed buildings and the Bloomsbury Conservation Area.
- 6.3 The statement refers to documents submitted in support of the refused planning application which are appended to the appeal submission through the appeal questionnaire. Further reference is made to refused planning and listed building consent applications and associated appeal decisions from 2015. These are appended to this statement at **appendices D and E**.
- 6.4 Further evidence is provided at **appendix B** regarding the level of fabric retention through an addendum to the originally submitted Structural Assessment Report, prepared by a conservation engineer. This sets out that it is likely that well over 95% of the roof fabric would be retained and reused in the construction of the new roof.

Reason for refusal 2: The proposed development, in the absence of a legal agreement securing car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to policies T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.

Reason for refusal 3: The proposed development, in the absence of an affordable housing contribution, would fail to maximise the supply of affordable housing, contrary to policies H4 (Maximising the supply of affordable housing) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.

- 6.5 In refusing the full planning application, the LPA set out, under informative note 2 that:

Without prejudice to any future application or appeal, the applicant is advised that reason for refusal 2 and 3 could be overcome by entering into a Section 106 Legal Agreement for a scheme that was in all other respects acceptable.

- 6.6 The delegated officer report usefully sets out that the affordable housing contribution would be calculated in accordance with the principles of Local Plan Policy H4, providing for an overall financial contribution of £6,083.
- 6.7 Similarly, the report clearly sets out that the new unit would be required to be car-free in accordance with Local Plan Policy T2, which involves limiting the availability of both off-street and on-street parking to new occupiers. This would prevent future occupiers from obtaining on-street parking permits.
- 6.8 A draft S.106 Unilateral Undertaking has been prepared so as to accommodate these requirements and therefore address reasons for refusal 2 and 3 of the planning application. This is attached at **appendix C**.
- 6.9 Should the Council consider any revision to the draft S.106 to be necessary, they are asked to contact the Appellant's solicitor directly. The reason why revisions are considered necessary, as well as the proposed amendment(s), should be set out.

Contact details for the Appellant's solicitor are: -

Christine Hereward
ch@hereward-solicitors.com
Tel: 07900 424640

- 6.10 As per the Planning Inspectorates Procedural Guide, a certified copy will be submitted in support of the appeal within 7 seven weeks of the start date.

7.0 SUMMARY AND CONCLUSION

- 7.1 The LPA consider that the appeal proposal would be harmful to the historic fabric and plan form of the host building and would therefore cause harm to its historic significance. Furthermore, the LPA consider that the proposal would cause harm to the Bloomsbury Conservation Area and, in the absence of a legal agreement, would fail to deliver a 'car-free' form of development and a financial contribution towards affordable housing. They consider therefore that the proposal would be contrary to the development plan.
- 7.2 As set out in this, and the appended supporting statements, it is considered that it has been demonstrated that the appeal proposal would not cause harm to the special interest or significance of the listed building nor would it cause harm to the character and appearance of the Bloomsbury Conservation Area.
- 7.3 Reasons for refusal 2 and 3 refer to matters that would normally be expected to be obligated through a legal agreement. The council have acknowledged that the reasons for refusal could be overcome by entering into a legal agreement and a draft unilateral undertaking supports the appeal to this effect.
- 7.4 In light of the above, and the supporting information, the Inspector is respectfully requested to allow the appeal.