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Contact: A Greenhalgh  
Direct Line: 020 7974 6341  
Adam.Greenhalgh@camden.gov.uk

The Planning Inspectorate  
Room 3/19 Eagle  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

**APPEAL SITE**

Albany House  
41 Judd Street  
London  
WC1H 9QS

**APPELLANT**

Cliffgold Limited

Appeal Statement in support of the refusal of LB  
Camden planning application 2020/2247/P for  
'Erection of a roof extension to provide 1 x 1  
bedroom flat and 1 x 2 bedroom flat.'

Planning and Regeneration Culture &  
Environment Directorate  
London Borough of Camden 2nd Floor, 5  
Pancras Square London  
N1C 4AG

Tel: 020 7974 1222  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

## 1. INTRODUCTION

This Appeal Statement contains the Council's case in respect of planning application 2020/2247/P for the erection of a roof extension to provide 1 x 1 bedroom flat and 1 x 2 bedroom flat at Albany House, 41 Judd Street. The application was received on 22/05/2020 and validated by the Council. The application was refused on 24/11/2020 for the following reasons:

1. The proposed roof extension, by reason of its siting, scale, and design, would cause harm to the symmetry, character and composition, and detract from the architectural significance of the host building, and harm the character and appearance of the Bloomsbury Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan (2017).
2. The proposed development, in the absence of a legal agreement securing an affordable housing contribution would fail to make adequate provision to the borough's strategic affordable housing targets, contrary to policy H4 (Maximising the Supply of Affordable Housing) of the London Borough of Camden Local Plan (2017).
3. In the absence of a legal agreement to prevent future occupiers from obtaining car parking permits the proposal would be unlikely to be a car-free development and it would promote increased car use in the Borough contrary to policies T2 (Parking and car-free development) and CC1 (Climate change mitigation) of the London Borough of Camden Local Plan (2017).
4. The proposed development, in the absence of a legal agreement to secure a construction management plan and an appropriate financial contribution towards implementation support and impact bond, 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 Officer Report setting out the consultation, site description, planning history, relevant planning policies, proposal and assessment and a conclusion was sent with the Questionnaire. This represents the council's case. The following comments on the council's policies and addresses the grounds of appeal.

## **2. UPDATE ON REASONS FOR REFUSAL**

Since the refusal of the planning permission the applicant has prepared and completed a legal agreement (18/08/2021) which addresses the second, third and fourth reasons for refusal. The legal agreement would secure an appropriate contribution towards affordable housing in accordance with the Council's policy (H4) for affordable housing. It would include clauses to prevent future occupiers from obtaining car parking permits in accordance with the Council's policies for sustainable transport (T2) and climate change mitigation (CC1) and it would secure a Construction Management Plan, a Construction Management Plan Bond and Implementation Support Contribution in accordance with 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).

The reasons for the S106 requirements are set out towards the end of this statement.

Reasons 2, 3 and 4 would be addressed by the legal agreement. The proposal is still considered to give rise to the first reason for refusal.

Nevertheless, should the Inspector be minded to disagree with the first reason for refusal and consequently to allow the appeal then Council would request that the decision is made subject to the legal agreement which has been submitted with the appeal.

## **3. SITE DESCRIPTION**

The site was described in Site Description in the Officer Report. The site is further addressed at sections 2.2.4 – 2.2.6 of the Officer Report which concern the history and architecture of the building, its profile and role in the townscape.

The building is noted as a being a positive contributor to the Bloomsbury Conservation Area (in the Bloomsbury Conservation Area appraisal and management strategy) (But the individual characteristics of all the positive contributors are not described in the Conservation Area Appraisal)

In the early and mid-19th century Bloomsbury came forward for development with a number of speculative building programmes for terraced housing. However by the end of the 19th century the desirability of Bloomsbury as an area for middle class residential occupation had been eclipsed and this led to an increase in non-residential uses.

Early in the 20th century the area was redeveloped with large areas of terraced housing being replaced by institutional buildings due to the proximity of the University of London. Due to the wholesale nature of this redevelopment the area has a very consistent architectural quality, identified by the use of common building materials and consistent building height, massing and architectural style.

Albany House was built as a hospital building as part of this redevelopment. It is a fine example of classically-inspired muscular Edwardian architecture. The building is well proportioned.

The design of the building has clearly been driven by consideration of the Golden Ratio. A time-honoured notion in architecture which is employed to

decide how a building's floor plan will flow and determine features such as how to properly determine a buildings layout, space out windows.



Existing east (Judd Street) elevation



Junction of Judd Street and Tavistock Place

#### **4. PLANNING POLICY FRAMEWORK**

The Development Plan at the time of the application (2020) consisted of the NPPF 2021, the London Plan 2021 and the Camden Local Plan which was formally adopted on the 3rd July 2017.

The appellant's Statement of Case refers to the policies in the London Plan 2021 (particularly HC1 and H1). The Council acknowledges the need to provide new housing in accordance with the housing targets set out in the London Plan (which are indicated in Table 4.1). Policy HC1 states that: *'Development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. The cumulative impacts of incremental change from development on heritage assets and their settings should also be actively managed'*.

The appellant's Statement of Case also indicates that the public benefit weighing exercise required under para 196 of the NPPF was not undertaken by the Council. The Officer report refers to the need to weigh the effect of the proposal on the significance of a non-designated heritage asset against the public benefits of the proposal. While this was not undertaken expressly in the Officer Report, it was considered that the harm to the heritage asset was such that it would not be outweighed by the benefit of the additional housing.

#### **5. STATEMENT OF CASE**

The relevant consideration in this case are the effects on the townscape and the Bloomsbury Conservation Area. The following amplification of the council's design concerns address the appellants grounds of appeal.

##### Design and conservation

The policies relating to Design and Conservation are listed and referred to in the Officer Report. Policy D1 of the Local Plan and policy 2 of the Neighbourhood Plan require new development to respect local character and to respond to the scale and context of the area. Policy D2 (Heritage) states that the Council will preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas.

Para 5.4 of the Bloomsbury Conservation Area Appraisal and Management Strategy 2011 advises that roof level extensions can be inappropriate, particularly where these interrupt the consistency of a uniform terrace or the prevailing scale and character of a block, or are overly prominent in the street.

The site and the existing roof does not form part of a uniform terrace but it is visible as can be seen on the Google Maps images above and below.





Site viewed from Tavistock Place (east)

This location gives rise to the host building being prominent in near and longer vistas along both roads. This results in the roof extension being as visually prominent as the lower sections of the roof.

However rather than appearing grounded and part of the building - as the existing roof clearly is - the proposed extension appears to 'jar' as an incongruous addition to the roof.

The current roof is simple even with its evenly located dormer casements. A clean termination to the building. Brick elevations and roof - they make an aesthetically pleasing assembly. The addition is an imposition and disrupts the aesthetic of the existing building. The extension disrupts the quasi-symmetry of the east (front) elevation of the building

The flat roofed, zinc clad extension, with non-matching contemporary glazing, would detract from the symmetry and significance of the pitched tiled roof in the Conservation Area by way of its siting, massing and architectural design.

Both elevations of the building would be affected and contrary to paras 4.10 - 4.17 of the appellant's Statement of Case the proposals would be visible from surrounding public viewpoints. The roof is particularly prominent from Tavistock Place (east) and Judd Street (south). This can be seen from the above photographs, from Views 2 and 3 in Appendix 4 of the appellant's Statement of Case and it can also be viewed on site.

No additional storey is required to improve upon the composition. The addition is an imposition and disrupts the aesthetic of the existing building. The incremental addition of roof extension after roof extension within a conservation area leads to the incremental degradation of the streetscape character and the concomitant erosion of the significance of the architecture. Clean eaves lines and roof lines become confounded and lost under an ever burdensome agglomeration of roof extensions and plant.

The Council's Conservation Officer is of the opinion that a roof extension should not be considered as an acceptable addition to this building. The addition of the proposed roof extension will result in harm to architectural significance of the building, cause harm to the contribution the building makes to the character and appearance of the streetscape and thus that of the conservation area. The proposal is therefore contrary to policies D1 (Design)

and D2 (Heritage) of the London Borough of Camden Local Plan (2017), the London Plan 2016, Draft London Plan 2017 and policy HC1 of the London Plan 2021 and 'Conserving the historic environment' of the NPPF 2021.

The benefit arising from the provision of two additional housing units is not considered to outweigh the irreparable harm that would be caused to the Conservation Area in this instance.

The following justifies the s106 obligations that the appellant has agreed to:

### **Reason for Refusal No 2(affordable housing)**

Policy H4 of the Camden Local Plan relates to maximising affordable housing. It states that "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 additional home or more and involve a total additional residential floorspace of 100 sqm GIA or more."

Policy H4 further states that :

"The Council will seek to negotiate the maximum reasonable amount of affordable housing on the following basis –

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;

g) where developments have capacity for fewer than 10 dwellings, the Council will accept a payment-in-lieu of affordable housing

In this case, the additional floorspace by the flats is 141sq m, which require 4% affordable housing. This equates to £33,200. Toward affordable housing

For schemes of fewer than 10 additional units, the Council will expect a contribution calculated based on a sliding target as a percentage of floor area. This will assist the provision of affordable housing elsewhere in the borough.

CIL Compliance: The contribution is considered to be CIL compliant. It is necessary in planning terms as identified in the development plan to mitigate against the increased impact that will be generated by the development. The contribution has been calculated taking into account the particular characteristics of the development, it is directly related to the development and is fairly and reasonably related in scale and kind to the development.

### **Reason for refusal no.3 (car-free)**

The Council's adopted policies T1 and T2 seek to limit the opportunities for parking within the borough as well as prioritise the needs of pedestrians and cyclists to ensure that sustainable transport will be the primary means of travel, reduce air pollution and local congestion. The development should be secured as car-free through via a covenant under s.16 of the Greater London Council (General Powers) Act 1974 and other local authority powers if the appeal were allowed.

A planning obligation is considered the most appropriate mechanism for securing the development as car-free as it relates to controls that are outside of the development site and the ongoing requirement of the development to remain car-free. The level of control is considered to go beyond the remit of a planning condition. Furthermore, a legal agreement is the mechanism used by

the Council to signal that a property is to be designated as “Car-Free”. The Council’s control over parking does not allow it to unilaterally withhold on-street parking permits from residents simply because they occupy a particular property. The Council’s control is derived from Traffic Management Orders (“TMO”), which have been made pursuant to the Road Traffic Regulation Act 1984. There is a formal legal process of advertisement and consultation involved in amending a TMO. The Council could not practically pursue an amendment to the TMO in connection with every application where an additional dwelling/use needed to be designated as car-free. Even if it could, such a mechanism would lead to a series of disputes between the Council and incoming residents who had agreed to occupy the property with no knowledge of its car-free status. Instead, the TMO is worded so that the power to refuse to issue parking permits is linked to whether a property has entered into a “Car-Free” legal obligation. The TMO sets out that it is the Council’s policy not to give parking permits to people who live in premises designated as “Car-Free”, and the Section 106 legal agreement is the mechanism used by the Council to signal that a property is to be designated as “Car-Free”.

Use of a legal agreement, which is registered as a land charge, is a much clearer mechanism than the use of a condition to signal to potential future purchasers of the property that it is designated as car free and that they will not be able to obtain a parking permit. This part of the legal agreement stays on the local search in perpetuity so that any future purchaser of the property is informed that residents are not eligible for parking permits.

### **CIL Compliance**

The car-free requirement complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to necessarily mitigate against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. This supports key principle 4 of the National Planning Policy Framework: Promoting sustainable transport. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to the parking provision for the site and impact on the surrounding highway network.

### **Reason for refusal no.3 (Construction Management Plan)**

Local Plan policy A1 states that Construction Management Plans (CMPs) should be secured to demonstrate how developments would minimise impacts from the movement of goods and materials during the construction process (including any demolition works). The appeal proposal would involve significant works due to the construction of large buildings on the site. A CMP would be required in order to address the issues around how the demolition and construction work would be carried out and how this work would be serviced (e.g. delivery of materials, set down and collection of skips), with the objective of minimising traffic disruption and avoiding dangerous situations for pedestrians and other road users.

The failure to secure a CMP by S106 would give rise to conflicts with other road users and be detrimental to the amenities of the area generally.

A CMP implementation support contribution (£3,136) will also be secured as a planning obligation by a legal agreement. This contribution must be paid prior to commencement of works. This contribution covers the ongoing review and monitoring elements of the CMP (a living document) and site inspections, meetings with the developer and local stakeholders, to ensure compliance. A CMP bond of £7,500 would also be required in case the contractor fails to abide by the CMP and the Council has to take action to remediate issues. The fee would be fully refundable on completion of the works should there be no breach. The amount of this contribution has been calculated to reflect the scale



of the development and the complexity of the CMP. This level of contribution is explained on the Council's website.

A planning obligation is considered to be the most appropriate mechanism for securing compliance with a CMP in this case simply because a considerable extent of the activity during construction could cause conflict with other road users and users of both carparks. It would also be detrimental to the amenity of the area and will necessarily take place outside the curtilage of the planning unit of the appeal site. Potential impacts for the proposed demolition/construction works which should be controlled by a CMP include traffic generation from removal and delivery of materials to the site. This could result in traffic disruption and dangerous situations for pedestrians and road users.

Under the Planning Act conditions are used to control matters on land within the developers' control. However, a CMP is designed to be an enforceable and precise document setting out how measures will be undertaken not just on site but also around the site in order to minimise as far as reasonable the detrimental effects of construction on local residential amenity and/or highway safety on the nearby roads, hence using a condition to secure the type of off-site requirements usually included in a CMP would in this case be unenforceable.

Conditions can only lawfully be used to control matters on land within the developer's control. Many of the CMP provisions will relate to off-site requirements, particularly public highway (which is not land within the developers' control). As such, a Section 106 Agreement (rather than a condition) is the most appropriate mechanism. This is in accordance with Planning Practice Guidance which states that conditions requiring works on land that is not controlled by the applicant often fails the tests of reasonability and enforceability.

#### **CIL Compliance:**

The CMP and associated contribution is considered to be CIL compliant as it ensures that the development is acceptable in planning terms to necessarily mitigate against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to managing impacts to neighbours and on the surrounding highways from construction at the site.

## **6. CONCLUSION**

The proposal for a roof extension to provide 1 x 1 bed flat and 1 x 2 bed flat was refused by the Council on 24/11/2020 for four reasons. Three of these (numbers 2, 3 and 4) related to items of infrastructure needed to comply with the Council's policies on the provision of affordable housing, sustainable transport and transport management and these have been addressed by a legal agreement which has been agreed between the parties. It is understood that a copy of this signed legal agreement has been sent to PINS by the appellant.

Should the Inspector be minded to allow the appeal then it is submitted that any planning permission should be subject to the legal agreement.

The first reason for refusal, relating to the effects on the host building and character and appearance of the Bloomsbury Conservation Area remains.

The Council has demonstrated, in the Officer report and in this Statement of Case, that the proposal would cause irreparable harm to the context and character of the townscape and the character and appearance of the Conservation Area. The benefit arising from the provision of two additional

housing units is not considered to outweigh the irreparable harm that would be caused to the Conservation Area in this instance.

The proposal is therefore contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan (2017), the London Plan 2016, Draft London Plan 2017 and policy HC1 of the London Plan 2021 and 'Conserving the historic environment' of the NPPF 2021.

The Inspector is therefore requested to dismiss the appeal.

Recommends conditions to assist the inspector should the appeal be allowed are to follow.