



Appeal Decision

Site Visit made on 7 September 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th October 2021

Appeal Ref: APP/X5210/W/21/3270421

66 Chalk Farm Road, London NW1 8AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by A Bacon against London Borough of Camden.
 - The application Ref 2020/4232/P, is dated 11 September 2020.
 - The development proposed is described as creation of a new one bedroom flat on existing flat roof over two existing retail units with main access from existing entrance.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. The Council have commented that had they determined the application they would have refused planning permission for the development as they consider that: it would cause harm to the character and appearance of the building and the surrounding area; would cause harm to the living conditions of neighbouring residential properties in relation to outlook; there was a failure to demonstrate future residents would not be exposed to unacceptable air quality or what, if any, mitigation would be necessary; and due to the lack of a legal agreement to secure a Construction Management Plan, associated Implementation Support Contribution and Bond, and car-free development.

Main Issues

3. The main issues are 1) the effect of the proposed development on the character and appearance of the host property and the surrounding area, 2) the effect of the proposed development on the living conditions of occupants of neighbouring residential properties with specific regard to outlook, and 3) whether or not future residents would be exposed to unacceptable air quality.

Reasons

Character and Appearance

4. The appeal property is a single storey building that comprises two retail units. It sits adjacent to a three-storey building that includes roof level accommodation. To the rear of the site is a three-storey residential building with mansard roof extension. The arrangement of having a single storey commercial building set forward of taller buildings that are set back from the frontage is repeated on the adjacent block of properties. The appeal property is separated from this adjacent block of properties by the forecourt of a

commercial property, the result of which is that the side elevation of the appeal property is more exposed in the street-scene.

5. There is a wide variety of building styles and materials in the area, although in its immediate context, the appeal building sits with traditionally designed and proportioned commercial and residential properties to the side and rear.
6. The proposed development involves the creation of an additional storey on top of the building to create a one-bedroom flat. It would be externally clad in Corten steel and incorporate a green sedum roof with a slight curvature. Although there is a wide variety of building styles and materials in the area, the design of the proposed development bears little resemblance to the host building below. It would result in a sharp and uneasy contrast in both materials and design with the host building and the buildings to the side and rear.
7. For these same reasons, the proposed development would appear alien and incongruous. The side elevation, being exposed to the street-scene further exemplifies the harm, with the projecting balcony appearing random and harmfully prominent. The curvature of the roof that would also be prominent on the side elevation would also appear at odds with the clear linear form of the host building and adjacent buildings.
8. Although the appeal building, being of single storey, sits beneath taller buildings to the side and rear, I do not agree with the appellant that it does not relate well to the existing buildings in this part of Chalk Farm Road or that it has a negative effect on the character and appearance of the area. Despite the intervening forecourt, it follows the pattern and arrangement of existing buildings in the street-scene, that being of single storey commercial properties with taller buildings to the rear. The proposed development would depart from this established arrangement, and although each development must be determined on its own merits, I acknowledge the Council's concern that it could set a precedent for similar developments in the area.
9. I therefore conclude that the proposed development would cause harm to the character and appearance of the host property and the surrounding area. It would be contrary to Policy D1 of the Camden Local Plan (2017) which requires, amongst other things, that development is of high quality that respects and complements local context and character.
10. It would also be contrary to the National Planning Policy Framework (2021) (the Framework) which requires, amongst other things, that developments are visually attractive and sympathetic to local character, including the surrounding built environment.

Living Conditions

11. The evidence outlines that the building to the rear of the site comprises a number of residential properties. The first floor of the building looks directly onto the roof of the appeal property and the site of the proposed development, with the second floor and roof level also looking onto the roof of the appeal property below.
12. The proposed development would sit in front of three large windows that serve the residential premises to the rear. One of these windows is located within a projecting bay, with the other two being slightly recessed to the main body of

the building. The evidence outlines that the proposed development would be 2.7m from the central bay window and 4.6m from the windows either side.

13. Although the proposed development, when viewed from the first-floor windows, is effectively a single storey structure, that incorporates landscaping and a curved roof, at this distance, its scale and siting would appear overbearing and cause significant harm to the outlook from this part of the residential property.
14. The appellant considers that when taking into account the current outlook, the proposed development, incorporating a green wall/roof would have a positive impact on outlook. I accept that the imaginative use of landscaping would lessen the impact of an otherwise blank elevation, however it would not absolve the development of the harm it would cause due to its scale and siting.
15. I therefore conclude that the proposed development would cause significant harm to the living conditions of occupants of the first floor of the residential property to the rear of the site. It would be contrary to Policy A1 of the Camden Local Plan (2017) which requires, amongst other things, that the amenity of neighbours is protected, including having regard to outlook.
16. It would also be contrary to the requirement of the Framework that developments should create places with a high standard of amenity for existing users.

Air Quality

17. The appeal property is located within the Camden Air Quality Management Area (AQMA) on Chalk Farm Road, which I observed is a busy road that includes bus routes. Policy CC4 of the Local Plan outlines that the Council will take into account the impact of air quality when assessing development proposals, through the consideration of the exposure of occupants to air pollution. Air Quality Assessments (AQAs) are required where development is likely to expose residents to high levels of air pollution. The Policy continues that developments that introduce sensitive receptors, such as housing, in locations of poor air quality will not be acceptable unless designed to mitigate the impact.
18. The supporting text of the policy outlines the types of development where the Council will require an AQA. Although the proposed development would not constitute one of those listed, the text goes on to say that a basic AQA will be required where occupants will be exposed to poor air quality, for example, due to its location next to a busy road. An AQA has not been submitted.
19. The proposed development incorporates three windows on the front elevation at first floor level, with doors leading onto the balcony at the side on the same level. The windows would broadly align with the edge of the footpath that runs along Chalk Farm Road.
20. The appellant has outlined that the nearest automatic air quality monitoring station to the appeal site is 1.7km to the west. They also outline that there are several non-automatic monitoring stations within 500m of the appeal site, although the data from some of these sites is not publicly available.
21. The appellant presents a case that based on the publicly available data, it is likely that the air quality at the site is well within the National Air Quality Objectives limit and that the site is unlikely to expose residents to high levels

of air pollution. They consider it is therefore reasonable to conclude that no special air quality mitigation measures are required.

22. Although I find some logic in the appellants argument, it is nevertheless not one which is based on specific data in relation to the proposed development before me. It does not provide the necessary certainty about the air quality or whether mitigation measures would, or would not, be needed to ensure future occupants are not exposed to unacceptable air quality.
23. I accept that in some instances appropriate mitigation measures can be secured by condition. This should be on occasions where the need for mitigation has been established, unlike the appeal proposal where, due to the lack of an AQA, it is not known if mitigation is necessary. The condition as suggested by the appellant would therefore fail the test of necessity.
24. I am therefore unable to conclude that future occupants would not be exposed to unacceptable air quality. The proposed development would be contrary to the identified requirements of Policy CC4 of the Camden Local Plan (2017).

Other Matters

25. The Council have commented that the proposed development would be unacceptable due to the lack of a legal agreement to secure a Construction Management Plan, associated Implementation Support Contribution and Bond, and car-free development.
26. Both main parties outline that they are working together on a legal agreement to address these matters, although there is not a completed legal agreement before me.
27. However, as I am dismissing the appeal for other reasons the presence of a completed agreement could not, in any event, lead to a different decision. There is therefore no need for me to reach a finding on these matters.

Planning Balance and Conclusion

28. The Government's objective as set out in the Framework is to support housing growth. Although the proposed development would result in only a slight increase in the Council's overall housing number, this is nevertheless a factor of significant weight in favour of the proposed development.
29. However, in light of the harm I have identified would be caused to the character and appearance of the area, the living conditions of neighbouring residents and the lack of a sufficient air quality assessment, collectively, these matters attract significant weight that outweighs the benefit associated with the proposed development.
30. The proposed development would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.
31. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal be dismissed, and planning permission refused.

A M Nilsson

INSPECTOR