



## Appeal Decision

Site Visit made on 10 November 2021

**by Mr M Brooker DipTP MRTPI**

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

**Decision date: 16 March 2022**

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### **Appeal Ref: APP/X5210/W/21/3272799 23-27 Kings Terrace, London NW1 0JP**

- 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 Camden Properties (UK) Ltd against the decision of London Borough of Camden.
  - The application Ref 2020/2072/P, dated 11 May 2020, was refused by notice dated 4 February 2021.
  - The development proposed is the erection of a mansard roof extension to provide two 1-bedroom flats.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The appellant has sought to submit a legal obligation after the final deadlines for the submission of information and evidence has passed. Rule 16(1) of the Written Representations Procedure Regulations 2009 provides me the authority to proceed to make a decision on an appeal taking into account only such written representations as have been sent within the relevant time limits.
3. The Written Representations Procedure Regulations 2009 clearly states that "New evidence will only be exceptionally accepted". On the basis of the evidence before me it appears that the issues to which the submitted legal obligation relates were raised by the Council on a number of occasions and the appellant has not provided any substantive reasons as to why it was not possible to have provided the legal obligation within the usual deadlines.
4. Nonetheless the legal obligation is of particular relevance to three of the five reasons for refusal detailed in the Council's decision notice. A copy of the submitted legal obligation has been forwarded to the Council for comment.
5. On the basis of the relevance of the legal obligation to the matters under consideration in this appeal, the prior discussion between the main parties in respect of the matters contained within the legal obligation and because the Council has had the opportunity to comment on the submitted legal obligation, I am satisfied that no parties interests would be prejudiced if the legal obligation were to be accepted for consideration in this appeal.
6. Parties should be aware that the submission of late evidence can lead to a delay in the determination of an appeal because it is necessary to give the other party or interested people the opportunity to comment, result in

additional expense being incurred by another party who may make an application for costs, and potentially the Inspector initiating an award of costs.

## **Main Issues**

7. The main issues are the effect of the proposed development on:
- i. the character and appearance of the area, including the Camden Town Conservation Area
  - ii. the living conditions of the occupiers of properties on Camden High Street, with particular regards to loss of daylight, outlook and privacy
  - iii. highway safety with particular regards to car parking and construction traffic
  - iv. whether or not the appeal scheme makes appropriate provision for affordable housing with regards policy H4 of the London Borough of Camden Local Plan (the LP).

## **Reasons**

### Character and appearance

8. The appeal site is located on Kings Terrace, a mews type lane that runs parallel with Camden High Street and within the immediate setting of the appeal property is the more modern building of 90-93 Plender Street and a large historic building referred to by the parties as the New Camden Chapel in addition to the more modest mews properties elsewhere on Kings Terrace.
9. The site is within Camden Town Conservation Area (CTCA), I saw at the site visit that, in common with the setting of the appeal site, this part of the CTCA accommodates a variety of architectural styles, the combination of buildings of various ages makes a significant contribution to the character and appearance of the area and the CTCA.
10. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
11. The appellant dismisses the built environment around the appeal site suggesting that the appeal scheme would add interest to a "mews which lacks architectural interest" and that "none of the buildings along Kings Terrace have any significant architectural merit". On the basis of the evidence before me and my observations on site I disagree.
12. While the age of properties on Kings Terrace varies, there is a particular quality to the character and appearance of the mews, with some commonality in the size, scale and palette, particularly in respect of the terrace that contains the appeal property.
13. The submitted plans show that the materials proposed, the size, scale and fenestration of the roof extension, relate poorly to the existing building and surrounding area. As a consequence, the roof extension would appear as a prominent and incongruous feature harming the character and appearance of the area, including the CTCA.

14. The appellant has referred to the development at Bayham Place where a two-storey galvanised metal clad extension to the roof of the property has been erected. I have not been provided with details of all the policies and circumstances that applied at the time that planning permission was granted for this development and in any event, this development does not persuade me as to the acceptability of the appeal scheme.
15. For the reasons detailed above I find that the appeal scheme would harm the character and appearance of the area, including the Camden Town Conservation Area. In relation to the test concerning the level of harm as it applies to designated heritage assets under the Framework, based on the reasons I have set out above, 'less than substantial' harm to the significance of the conservation area would arise. There are no public benefits that have been put to me that would outweigh this harm. As such the appeal scheme is contrary to Policies D1 and D2 of the LP that seek, amongst other matters, to protect the historic and build environment of Camden.

#### Living conditions

16. The rear elevation of properties facing on to Camden High Street are located in close proximity to the rear elevation of the appeal scheme. While there are a number of windows in the rear elevation of these properties, the Council identify that with regards 44 Camden High Street, there is a window to the second floor that serves a bedroom, the window is referred to as being obscurely glazed and a diagram included in the officer's report suggests that the appeal scheme would result in a reduction in day and sunlight and outlook to that window.
17. I note that these windows would look towards the northeast and that the existing obscure glazing of the window referred to above would already reduce the level of day and sunlight entering the room, which is referred to by both parties as being a bedroom.
18. However, on the basis of the evidence before me it is clear that, as a result of the proximity of the appeal scheme to the rear elevation of the properties on Camden High Street and the scale and height of the proposed development, the appeal scheme would reduce the daylight and outlook for the residents of those properties.
19. While both parties have referred to 'BRE guidelines', in the absence of substantive evidence to the contrary, I find that it has not been demonstrated that the appeal scheme would not harm the living conditions of the occupiers of properties on Camden High Street, with particular regards to loss of daylight, outlook and privacy contrary to Policies A1 and D1 of the LP that amongst other matters seek to protect the living conditions of occupiers near new development.

#### Highway safety

20. The appeal site is located on a narrow mews and no carparking or cycle parking is proposed as part of the appeal scheme.
21. As referred to previously, the appellant has now submitted a planning obligation to the effect that the appeal scheme will be 'car free'. However, concern is also raised by the Council that no details and requirement for a Construction Management Plan (CMP) or a bond (referred to by the parties as a

Construction Impact Bond) are included. The Appellant's Statement of Case details a condition that could be imposed to secure a CMP.

22. It is the Council's case that a planning obligation is the "most appropriate mechanism for securing compliance with a CMP in this case simply because a considerable extent of the activity during construction" and that a great deal of this activity would necessarily take place outside of the appeal property on the public highway.
23. Planning Practice Guidance details that Planning obligations "should only be used where it is not possible to address unacceptable impacts through a planning condition. While I note that the appeal scheme is not Major development, on the basis that much of the construction activity, such as the unloading of materials to the site and removal of waste from the site will be carried out on land out-with the control of the appellant and on a narrow road, I am satisfied on the basis of the evidence before me that it is not unreasonable to use a planning obligation in this particular instance.
24. Therefore, in the absence of suitable provision in respect of a CMP, I find that the appeal scheme would harm highway safety contrary to policies T1, T2 T3 and T4 of the LP that amongst other matters seeks to protect highway safety.

#### Affordable housing

25. Policy H4 of the Local Plan seeks the provision of affordable housing in developments of one or more additional homes and that involve a total addition to the residential floor space of 100sqm or more. The submitted planning obligation does not secure the provision of or a contribution to affordable housing.
26. It is the appellants case that the provisions of the more recently adopted National Planning Policy Framework (the Framework), detailing that affordable housing should not be sought for residential developments that are not major developments.
27. Other than making reference to the relevant Policy and the Framework respectively, very little substantive evidence in this respect has been submitted by the main parties.
28. The Framework is not part of the Development Plan but is a material consideration. When read as a whole, while the Development Plan does predate the Framework, nonetheless it is identified that a significant proportion of the new housing in Camden will come from smaller sites and the need for the provision of affordable housing is clearly identified.
29. On this basis I am not satisfied that it has been demonstrated that the appeal scheme makes appropriate provision for affordable housing and as such the appeal scheme is contrary to Policy H4 of the LP.

#### **Other Matters**

30. The appeal scheme would create additional housing in an established, successful and accessible location, creating a higher density of development and thereby a better use of the land available. These are material considerations that weigh in favour of the appeal scheme but do not outweigh the harm I have previously identified.

**Conclusion**

31. There are no material considerations that lead me to conclude that the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

*Mr M Brooker*

INSPECTOR

