

APPEAL BY MR A KUBI

**AGAINST THE DECISION OF THE LONDON BOROUGH OF CAMDEN
FULL PLANNING PERMISSION**

**Installation of security roller shutters, shutter boxes and awnings to shop
fronts at no.37 and 39 and access ramp to no.37 (Retrospective).**

37 & 39 BELSIZE LANE, LONDON, NW3 5AS

PINS REF: TBC
LPA APPLICATION REF: 2018/5532/P
DATE OF DECISION: 28 FEBRUARY 2022

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APPENDICES

- 1. Article No.1 Dated 15.03.2018
- 2. Article No.2 Dated 16.03.2018

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 is located within the administrative ward of Belsize.
- 1.2 The ward of Belsize is a suburban area of north London, primarily residential in character but with a mix of commerce and industry. The ward is located east of South Hampstead, north of Primrose Hill and west of Chalk Farm. It is well connected, benefiting from several bus routes as well as underground and overground rail services into and out of central London. Accordingly, the site has a Public Transport Accessibility Level (PTAL) rating of 3 which is a good level of accessibility, highlighting the sustainable location of the appeal site.
- 1.3 The appeal site is located on the east side of Belsize Lane close to its junction with Belsize Terrace and comprises of two three storey, mid terrace properties with commercial uses on the ground floor and residential living above No.37 and a mix of residential and office above No.39. The two ground floor commercial units at numbers 37 and 39 Belsize Lane have been amalgamated into one unit, in use as a café; however, the frontages appear as separate shopfronts.
- 1.4 The site is located within the Belsize Conservation Area, however it is not a listed building (nor are there any nearby listed buildings). The building is identified as making a positive contribution to the character of the conservation area, in the Belsize Conservation Area Statement (2002).
- 1.5 Overall, the surrounding area is mixed in character, appearance, materiality and activity ranging from the residential accommodation on upper floors and commercial ground floor uses. There is no prevailing architectural style with each shopfront offering its own distinct style and formation.

2.0 THE APPLICATION

- 2.1 The application was registered on the 1st of March 2019 by the local planning authority. The application was assigned reference number 2018/5532/P.
- 2.2 The application sought full planning permission for the *Installation of security roller shutters, shutter boxes and awnings to shop fronts at no. 37 and 39 and access ramp to no. 37 (Retrospective)*.
- 2.3 The application was refused on 28 February 2022 for the following reason:
1. *The installed external shutter, shutter frame and box, and awning by reason of inappropriate location, design and appearance result in an incongruous addition to the building, and fail to preserve or enhance the character and appearance of the host building, the parade of which it forms a part, and the Belsize Conservation Area, contrary to the provisions of policies D1, D2, D3 and C5 of the Camden Local Plan 2017.*

3.0 NATIONAL PLANNING POLICY/LEGISLATION

LEGISLATION

- 3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 3.2 Section 72 of the Planning (Listed buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

The National Planning Policy Framework (NPPF)

- 3.3 The following paragraphs of the National Planning Policy Framework (hereafter referred to as the NPPF) are considered relevant to this case.

The presumption in favour of sustainable development:

- 3.4 Paragraphs 7-14 introduce a presumption in favour of sustainable development. Paragraphs 8, 9 & 11 are helpful in applying this presumption.
- 3.5 Paragraph 11 sets out how this is to be applied. It states that, *for decision-taking, this means:*
- *Approving development proposals that accord with an up-to-date development plan without delay; or*
 - *Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless*
 - *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 3.6 The NPPF introduces 3 dimensions to 'Sustainable development' (Economic, Environmental & Social - paragraph 8), and advises that they are interdependent and should be pursued in mutually supportive ways.

- 3.7 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.

- 3.8 Secondly, the decision-taker is required to consider whether the development accords with an up-to-date development plan – and if it does permission should be granted unless material considerations indicate otherwise. The appellant considers that the development accords with the development plan.
- 3.9 Thirdly, the decision-taker is required to determine whether there are any relevant development plan policies, or the policies which are most important for determining the application, that are out-of-date, and thereafter grant permission unless:
- *the application of policies in this Framework (NPPF) that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
- 3.10 Section 12 refers to achieving well-designed places. Paragraph 130, criterion c, states that *planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.*
- 3.11 Criterion d of paragraph 130 states that *planning policies and decisions should establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.*
- 3.12 Criterion f of paragraph 130 states that *planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*
- 3.13 Paragraph 134 states that *development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.*
- 3.14 Section 16 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 199-202).

4.0 THE DEVELOPMENT PLAN

Camden Local Plan (2017)

4.1 The Camden Local Plan (2017) sets out the visions, objectives and related strategic planning policies for delivering development in Camden. It was adopted in July 2017.

4.2 The following policies have been cited within the reasons for refusal:

Policy D1 – Design

4.3 Requires development proposals to incorporate exemplary standards of sustainable and inclusive design and architecture. Further, it states, in the correct context, imaginative modern architecture is encouraged provided that it respects Camden’s heritage and local distinctiveness.

Policy D2 – Heritage

4.4 Requires that all development must ensure heritage assets and their setting are conserved or enhanced in a manner that is appropriate to their significance.

Policy D3 – Shopfronts

4.5 Requires development to be of a high standard of design in new and altered shopfronts, canopies, blinds, security measures and other features.

Policy C5 – Safety and Security

4.6 Aims to make Camden a safer place by providing appropriate security and community safety measurements.

5.0 THE APPELLANTS CASE

Reason for refusal 1: *The installed external shutter, shutter frame and box, and awning by reason of inappropriate location, design and appearance result in an incongruous addition to the building, and fail to preserve or enhance the character and appearance of the host building, the parade of which it forms a part, and the Belsize Conservation Area, contrary to the provisions of policies D1, D2, D3 and C5 of the Camden Local Plan 2017.*

- 5.1 Firstly, it is important to understand the policy context relating to the reason for refusal.
- 5.2 CLP Policy D1 requires development to be of the highest architectural and urban design quality, have regard to design and visual impact and to the context within which it is placed, and the contribution it makes to the landscape qualities of the area.
- 5.3 CLP Policy D2 states that the Council will preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas.
- 5.4 Policy D3 of the LP sets out that all development must make the best use of land by following a design-led approach. The policy also states that developments should enhance local context, respect local character and be of high-quality architecture.
- 5.5 Policy C5 sets out that the Council will aim to make Camden a safer place by requiring developments to demonstrate that they have incorporated design principles which contribute to community safety and security and requiring appropriate security and community safety measures in buildings.
- 5.6 The harm identified by the LPA in the reason for refusal focuses on the location, design and appearance of the installed external shutter, shutter frame, shutter box and awning which is considered to result in an incongruous addition to the building to the detriment of the character and appearance of the host building, the parade of shops in which the site sits and the Belsize Conservation Area. Given that the officer report, at paragraph 1.2, confirms that the external shutter, retractable awning and associated apparatus have been in place for more than for years, this is lawful through the passage of time and the officers report is stated to be limited to an assessment of no.39 Belsize Lane only, the reason for refusal is deemed to solely relate to the works undertaken to no.37 Belsize Lane. For this reason, this appeal statement focuses on no.39 Belsize Lane only.
- 5.7 The appeal site is located within a terrace comprising, 3 storey , 1850's – 1880's building, on the corner of the junctions of Belsize Lane and Belsize Terrace. The application building is identified, In the Belsize Conservation Area Statement (2002) as making a positive contribution to the conservation area.

The conservation area appraisal sets out that the consistency in scale and materials and similarities in style give the area a very distinct and consistent character. The Conservation Area statement acknowledges that no.37 Belsize Lane has lost its original detailing and that negative features in the conservation area include poor shopfronts, loss of original details and inappropriate fascias, signage, awnings and proportioned shop fronts.

- 5.8 The conservation area statement sets out that security measures can detract from the appearance of the Conservation Area and that there will be a general presumption against the use of external security shutters, grills or meshes on shopfronts. The statement continues to set out that applicants would have to demonstrate that it is not feasible to strengthen the existing shop front, use toughened or laminated glass, use internal grills and/or improve lighting for external security shutters to be considered. This approach is reinforced in the in section 6 of Camden's Design SPG (2021). Paragraph 6.18 of the Design SPG sets out that the designs for new shopfronts should seek to respond to the existing and surrounding context. Paragraph 6.34 of the design guidance states that shop front canopies are only likely to be acceptable where they are retractable, traditional canvas, attached between the fascia and shopfront, is of a width appropriate to the shopfront and is flush with the fascia level.
- 5.9 In considering the appeal, it is important to understand the appellants pressing security need to install the security shutter. The appeal site suffered break ins and vandalism in two separate attacks in March 2018. Resulting in extensive and costly damage to the sites windows and water supply (appendix 1 and 2). This prompted the urgent need to improve security, culminating in the appeal installation.
- 5.10 As highlighted, in the Belsize Conservation Area statement and Camden's SPG on Design (2021), it is important that alterations to shopfronts consider the sites local context. The appeal sites shopfront is non-original and does not comprise a traditional shopfront that contributes positively to the character and appearance of the conservation area. Its immediate locality is characterised by shopfronts with awnings and roller shutters of varying design and quality (figure 1). Whilst the proposal does not wholly conform to the guidance contained within the Belsize Conservation Area statement (2002) and Camden's Design SPG (2021) the awning and shutter is designed and finished to match and seamlessly assimilate with the existing shopfront. In addition, the shutter and awning provides balance to the adjoining shopfront at no.37 Belsize Lane (figure 2). The installed awning and shutter is in keeping with the established character of this part of Belsize Conservation Area and thus preserves the contribution the building makes to the character and appearance of the conservation area.



Figure 1: Google street view images. (Top Left) security shutters at no 33 Belsize Lane, (Top Right) security shutters at no.10A Belsize Terrace, (Middle Left) awning at no.72 Belsize Lane, (Middle Right) awning at no.31a Belsize Lane, (Middle) awnings at no.7 and no.8 Belsize Terrace and (Bottom) awnings at no.60 and no.62 Belsize Lane.



Figure 2: Google street view images of the as installed awning and shutter no.37 Belsize Lane (left) and no.39 Belsize lane (right). Note the uniformity in finish and balance between the two properties.

5.11 If the Appeal Inspector finds the appeal scheme to be harmful to the character and appearance of the Conservation Area, the degree of harm would be no more than less than substantial. The modest degree of harm would be clearly outweighed by the public benefit of providing inclusive access to the building, improving the sites security, ensuring continued operation of an existing local independent business.

6.0 **SUMMARY AND CONCLUSION**

- 6.1 The LPA consider the appeal proposal to be harmful to the character of the existing building, the wider terrace and the character and appearance of Belsize Conservation Area.
- 6.2 As set out in this statement, Belsize Lane is characterised by ground floor commercial frontages that include shutters, awnings and associated paraphernalia. The appeal scheme is sympathetic to the finish of the existing shop front, balances the adjoining frontage at no.37 Belsize Lane and preserves the contribution the appeal building makes to the street scene and the existing established character and appearance of commercial frontages in the conservation area. The proposal significantly improves the sites security and ensures the continuation of a long established local independent business.
- 6.3 The development fulfils the three dimensions of sustainable development as defined by the NPPF and therefore the presumption in favour of sustainable development applies. The proposal is fully in accordance with national and local planning policy, when read as a whole. It is respectfully requested that the appeal is allowed.