

Appeal Statement

307 Gray's Inn Road,
Camden
WC1X 8QS

Create Reit Ltd.

September 2022

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1 Introduction

- 1.1 This Appeal Statement is prepared by Newsteer on behalf of the Appellants, Create Reit Ltd. (hereafter 'the Appellant'), in support of a planning appeal pursuant to Section 78(1)(a) of the Town and Country Planning Act (as amended). This follows the refusal of a planning application for application ref. 2021/5885/P, by the London Borough of Camden (hereafter the 'Council') for: -

"Replacement shopfront, residential entrance and access steps."

- 1.2 The site is 307 Gray's Inn Road, Camden, London (hereafter, 'the Site').
- 1.3 The application was refused on 27 September 2022 for two reasons: -

Reason for Refusal 1

The proposed shopfront, by virtue of its design and location, would result in an unsympathetic and incongruous frontage that would have a detrimental impact on the character and appearance of the host building and wider Kings Cross St Pancras Conservation Area, contrary to policies A1 (Impact of development), D1 (Design), D2 (Heritage) and D3 (Shopfronts) of the Camden Local Plan 2017.

Reason for Refusal 2

The proposed infilling of the light-well and removal of railings would be detrimental to the character and appearance of the host property and the wider Kings Cross St Pancras Conservation Area contrary to policies A1 (Impact of development), D1 (Design), D2 (Heritage) and D3 (Shopfronts) of the Camden Local Plan 2017.

2 Site Background

Planning History

- 2.1 A full account of the planning history detailing alterations to the building is included in **Appendix 1**.
- 2.2 Included in this planning history however is a 1984 Reserved Matters Application (Council Ref. 8400638) for: -
- 'Approval of details of elevation and materials of shop front pursuant to condition 3 of the planning permission dated 24 November 1982 (Reg. No. 35090) together with the excavation of part of the front area and its enclosure by metal railings to a height of 1m.'*
- 2.3 It is agreed in the Officers Delegated Report that the *'existing shopfront is not original and is in need of some attention'*. However, it is important to establish that based on application 8400638, along with the shopfront, the lightwell and railings are not original to the building.
- 2.4 It is also important here to highlight that the Inspector, in considering an appeal at the same Site in 2021 (APP/X5210/W/21/3268650) reached the same conclusion – as will be discussed below.
- 2.5 As will also be discussed below, the Inspector reached the conclusion that the covering of the lightwell would not cause harm (paragraphs 10 & 13). The Inspector also concluded that the railings were not a hugely positive characteristic of this part of the KCCA (paragraph 11) and their removal would also not cause harm (paragraph 13).

Application Subject of the Recent Appeal (2020/1648/P)

- 2.6 The principle of a replacement shopfront and associated works was not contested by the Council when assessing planning application 2020/1648/P, nor was it challenged by the appointed Inspector (APP/X5210/W/21/3268650).
- 2.7 In dismissing the appeal, the Inspector concluded that although no harm would be caused due to the removal of the lightwell and railings, that the proposed shopfront, due to its overall design, would cause harm. The contributors to harm, in this instance, surrounded the lack of any notable detail in the main window (paragraph 7) and the fact that the fascia extended further upwards than the existing fascia (paragraph 8) – **see Appendix 6**.
- 2.8 With respect to the removal of the lightwell and railings, the Inspector concluded that the development would be consistent with the aim of the Camden Planning Guidance (CPG) on Design (2021).
- 2.9 This appeal decision from 2021 is a significant material consideration in the determination of this appeal, particularly due to precise observations around the shopfront design and the very clear conclusion around the lightwell and railing removal.

Application Subject of the Appeal (2021/5885/P)

- 2.10 The application subject to this appeal was submitted to the Council on 30 November 2021 and was registered (as valid) on 14 January 2022. The application was determined under delegated powers on 27 September 2022.
- 2.11 The application was supported by a covering letter prepared by the Appellants' Agents. This letter confirmed the ways in which the application, proposing an overall enhancement to a shop frontage in a conservation area, complied with the applicable policies in the Camden development plan. The covering letter also made reference to the aforementioned appeal decision.
- 2.12 It should be noted here that the covering letter was seemingly not made publicly available until 8 June 2022 (the date the document was published online). The objection raised by the Conservation Area Advisory Committee (hereafter 'CAAC') was uploaded to the Council's online register on 4 March 2022 (**Appendix 2**). This is important as the objection was based upon 'insufficient information' being provided (**Appendix 3**). Had the CAAC reviewed the covering letter they would have been aware of the recent planning history (including that none of the elements being removed / altered were 'original') and the changes made to the shopfront to address the issues raised by the Council and Planning Inspector. It should also be noted that the CAAC did not raise any objection to planning application 2020/1648/P.
- 2.13 It is also noteworthy that the Conservation Officer in the consultation response (dated 8 June 2022) (**Appendix 4**) had also not reviewed the submission material – when querying whether the shopfront was original. The consultation response also fails to acknowledge the 2021 appeal decision and in particular the comments made by the Inspector surrounding the railing, lightwell nor the aims of the Camden Planning Guidance (CPG) on Design (2021).
- 2.1 It is noted that the reasons for refusal given by the Council have altered slightly to the reasons subject of the current appeal insofar that under planning 2020/1648/P the 'size' of the shopfront was objectionable (Reason 1) whilst it was considered that the infilling of the lightwell and removal of the railings would be detrimental to the 'wider area' as well as the Kings Cross Conservation Area (Reason 2).
- 2.2 The Delegated Report prepared by the Council recommended refusal, referring to the proposed development as contrary to the following policies of the Camden 2017 Local Plan:
- A1 (Impact of development),
 - D1 (Design),
 - D2 (Heritage), and
 - D3 (Shopfront).
- 2.3 Each of these policies is quoted within the Reasons for Refusal. It is noted however that the Camden Planning Guidance (CPG) on Design (2021) is not referenced within either reason for refusal. It is reasonable to conclude therefore that the Council does not consider the proposals to be contrary to the guidance within it.

3 Character of the Area

3.1 The supporting Appeal Statement to APP/X5210/W/21/3268650 is appended to this Statement (**Appendix 5**) as this contains a full account of the character of the area.

3.2 The appeal decision (APP/X5210/W/21/3268650) (**Appendix 6**) is also relevant here, in which the Inspector states: -

- *The KCCA Statement identifies that the ground floor retail units to both the appeal property and its adjoining neighbour at no. 309 are modern and not in keeping with the character of the Conservation Area, despite that of the appeal property being of timber in a traditional design (paragraph 7).*
- *... that there is a wide variety of shopfronts in the surrounding area, including some with fascias of a similar siting to that proposed (paragraph 9).*
- *In terms of the lightwell, the presence of similar installations in the street is somewhat sporadic (paragraph 10).*
- *These (the railings) appear to be of the prefabricated steel variety rather than an original or historic feature. Although there are railings installed at other premises, the wide variety of styles, lengths and sitings, means that whilst they are a relatively common feature, they are not a hugely positive characteristic of this part of the KCCA (paragraph 11).*

4 The Development Plan and Other Material Considerations

- 4.1 Directed by Section 38(6) of the Planning and Compulsory Purchase Act (2004), Planning Applications should be determined in accordance with an up-to-date development plan unless material considerations indicate otherwise.

Development Plan

- 4.2 For the purposes of this appeal the London Borough of Camden Development Plan is made up of the following documents;
- London Plan (2021)
 - Camden Local Plan (2017)

The Council has also produced a number of supplementary planning guidance documents. The most relevant of which are;

- Camden Planning Guidance (CPG) on Design (2021),
- Basements (2018) and, the
- Kings Cross / St. Pancras Conservation Area Appraisal and Management Strategy (2003).

Camden Local Plan (2017)

- 4.3 The Council cited the following policies in their reason for refusal:-

- **A1 Impact of development** guides that Council will seek to protect the quality of the life of occupiers and neighbours, ensuring development contributes to strong and successful communities through the consideration of the following factors: -
 - e) *visual privacy, outlook;*
 - f) *sunlight, daylight and overshadowing;*
 - g) *artificial lighting levels;*
 - h) *transport impacts, including the use of Transport Assessments, Travel Plans and Delivery and Servicing Management Plans;*
 - i) *impacts of the construction phase, including the use of Construction Management Plans;*
 - j) *noise and vibration levels;*
 - k) *odour, fumes and dust;*
 - l) *microclimate;*
 - m) *contaminated land; and*
 - n) *impact upon water and wastewater infrastructure.*
- **D1 Design** is the Council's design policy. This policy states the Council's desire to secure high quality design through development, requiring that development: -
 - a) *respects local context and character;*
 - b) *preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;*
 - c) *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.

- **D2 Heritage** aims to protect and enhance Camden's heritage assets and their settings, including conservation areas. This policy requires development in a conservation area to preserve or where possible enhance the areas character and appearance while resisting changes to unlisted buildings which make a positive contribution to the character of appearance of a conservation area.
- **D3 Shopfront** advises that the Council expects a high standard of design in new and altered shopfronts. The removal of original shopfronts will be resisted as will the removal of shop windows without a suitable replacement. When determining proposals for shopfront development the Council will consider:
 - a) *the design of the shopfront or feature, including its details and materials;*
 - b) *the existing character, architectural and historic merit and design of the building and its shopfront;*
 - c) *the relationship between the shopfront and the upper floors of the building and surrounding properties, including the relationship between the shopfront and any forecourt or lightwell;*
 - d) *the general characteristics of shopfronts in the area;*
 - e) *community safety and the contribution made by shopfronts to natural surveillance; and*
 - f) *the degree of accessibility.*

5 Response to 'Reason for Refusal 1'

- 5.1 This section sets out the Appellant's position in relation to the Council's Reason for Refusal 1, as set out in the Decision Notice for 2021/5885/P. Reason for Refusal 2 is dealt with in the next section.

Reason for Refusal 1

- 5.2 Reason for Refusal 1 is as follows:

"The proposed shopfront, by virtue of its design and location, would result in an unsympathetic and incongruous frontage that would have a detrimental impact on the character and appearance of the host building and wider Kings Cross St Pancras Conservation Area, contrary to policies A1 (Impact of development), D1 (Design), D2 (Heritage) and D3 (Shopfronts) of the Camden Local Plan 2017.."

The Appellant's Case

- 5.3 The Council maintains that there are two contributing factors resulting in an 'unsympathetic and incongruous' frontage in relation to a) the host building and b) the wider Kings Cross conservation area. It is noted that 'size' is no longer objectionable. These reasons are discussed below.

Design

- 5.4 The Council states that *"the proportions of the existing shop and residential entrance are considered suitable for a building of this type in the conservation area"*. As can be seen from the supporting plans, the proportions in this respect remain the same – the simple reason being that the building entrances frame the shopfront and cannot be altered. The Inspector reaches the same conclusion at paragraph 7. For the avoidance of doubt, the Inspector succinctly concluded that *"Although the broad positioning of the openings in the proposed shopfront remains consistent when compared to the existing shopfront, the lack of any notable detail in the main window creates a large expanse of undivided glazing resulting in a bland and uninspiring appearance."* For completeness, a copy of the elevation plan supporting planning application 2020/1648/P is provided at **Appendix 7**. In essence, the Inspector has helpfully narrowed down the single matter of dispute to the detailing of the main window and in particular suggesting that the glazing should be divided. As can be seen from the submitted plans the proposed main window precisely addresses this point in a sympathetic, proportionate and balanced manner.
- 5.5 The Council accepts that the size of the fascia 'sign zone' is an improvement (taking on board the previous Inspectors comments – paragraph 8) however contends that the detailing of the new proposed fascia 'sign zone' is considered poor, referencing the objection from the CAAC. As can be seen from **Appendix 3** the CAAC makes no such remark. Indeed, the Conservation Officer (**Appendix 4**) also doesn't make any comment on this particular element of the proposals. On this basis there is no 'conservation' justification to object to this particular element of the proposal, nor indeed would it be correct for the planning officer to make such a statement on either behalf. Notwithstanding this point, however, and upon the basis that the size of the signage zone has been acceptably improved (to match the existing), it would be completely within the Council's gift to add a suitably worded condition requesting further details of the signage zone (noting also at paragraph 3.13 that the Council could also request details of the materials to be used). The Appellant would accept such a condition should the

Inspector be minded to allow the appeal and has suggested such a condition at Section 8 of this Statement. That being said, the only real difference between the existing fascia zone to the proposed is the removal of some unsympathetic alarm boxes. The proposed fascia zone does reintroduce symmetry and balance across the frontage however to the benefit of the building and wider conservation area.

- 5.6 It is the Appellant's case that the design of the proposed fascia is consistent with Camden Policies, supplemental guidance and that it maintains a strong sense of place reflective of other buildings notable to the conservation area.

Location

- 5.7 The Council accepts that *"The proposal is to replace an existing shopfront in the same location."*
- 5.8 It is therefore not at all clear what is objectionable with replacing a shopfront in the exact location as to the existing.
- 5.9 In dismissing the previous appeal the Inspector raised no objection to the location of the shopfront (paragraph 7). It stands to reason therefore that the same conclusion must be drawn here.

6 Response to 'Reason for Refusal 2'

Reason for Refusal 2

6.1 Reason for Refusal 2 is as follows:

"The proposed infilling of the light-well and removal of railings would be detrimental to the character and appearance of the host property, the wider area and Kings Cross Conservation Area contrary to policies A1 (Impact of development), D1 (Design), D2 (Heritage) and D3 (Shopfront) of the Camden Local Plan 2017. "

The Appellant's Case

6.2 The Council maintains that the removal of the lightwell and railing would be detrimental to the character and appearance to the host building and the wider Kings Cross Conservation Area. This is despite the recent conclusion of the Inspector.

6.3 The area's Conservation Area Statement defines character and appearance and the evaluation of each, as follows (emphasis added): -

*"The character and appearance of an area depends on a variety of factors. Whilst **the appearance of an area derives from its physical and visual characteristics** (i.e. materials, heights of buildings, types and relationship of built form), **character includes other less tangible effects relating to the experience of an area. This may include levels and types of activity and patterns of prevailing land uses.**" (para 4.1.1, pg 19)*

6.4 Based on this definition, the appearance of the building would be changed by the removal of a lightwell and railings, however, the character would not. The Appellant maintains that the Conservation Area Statement as well as an evaluation of the buildings present in the conservation area should be used to define both the areas appearance and character.

6.5 CPG 4: Basement and Lightwells asserts that *"The presence or absence of lightwells helps define and reinforce the prevailing character of a neighbourhood."* The Officers report cited policy D2 (heritage) in its reasons for refusal, this policy guides that *"...development within conservation areas preserves or, where possible, enhances the character or appearance of the area and will seek to manage change in a way that retains the distinctive characters of our conservation areas..."*.

6.6 In order to comply with this, the character of the conservation area must first be established. Following a review of the Kings Cross/ St. Pancras Conservation Area Statement at no point is the presence of lightwells cited as characteristic of the area. Indeed, the Inspector concluded at paragraph 10 that *"... the presence of similar installations in the street is somewhat sporadic. Due to their limited visibility, they are not key visual features in the area and their contribution to the overall character and appearance of the area is limited"*. The inspector's conclusion was succinct in that *"...the covering of the lightwell would not cause harm."* It stands to reason therefore that the same conclusion must be drawn here.

6.7 The planning history concludes that the lightwell and railing are not original features of the building and were added in 1984 (ref. 8400638) – a point also picked up by the Inspector (paragraph 11).

- 6.8 The Appellant considers that the architectural merit of the building, as a building in the conservation area, is related to the building's original features and the removal of the added railings and lightwell would return the building to its original form.
- 6.9 The Officer's Delegated Report states that the proposed removal of railings and stone covered landing will *"entirely change the character of the shop frontage in such a way as to have a negative impact on the host building and streetscene."*
- 6.10 In assessing this precise point, the Inspector concluded, upon the basis that the railings are not original and that the materials are not a historic feature that "they are not a hugely positive characteristic of this part of the KCCA." It stands to reason therefore that the same conclusion must be drawn here.
- 6.11 Furthermore, and as guided by the Design SPG "...open lightwells with railings in front of a shopfront is not generally considered acceptable as in prevents window shopping and disrupts the buildings relationship to the rhythm of the street...". Through the removal of the shopfront lightwell and railings the proposal aims to activate the shopfront window to add 'visual interest, quality and vitality' to the street scene. Paragraph 12 of the Inspectors decision deals with this point specifically insofar that whilst not proposing to create a lightwell and railings that "...the removal would be consistent with the aim of this part of the guidance". It stands to reason therefore that the same conclusion must be drawn here.
- 6.12 As the proposal maintains the characteristic appearance of the conservation area while enhancing the property's ongoing shopfront function it should be evaluated as consistent with the development plan policy and guidance held within the Design SPG.

7 Conclusions

- 7.1 This Appeal Statement seeks to address the two reasons for refusal of Application 2021/5885/P as well as drawing upon the main conclusions of the previous Secretary of State appointed planning inspector.
- 7.2 It is the Appellants case that the proposed shopfront alterations would not have a detrimental effect on the host building and the Officers evaluation of the scheme is inconsistent with the Councils evaluation of the host building and conservation area and thus the application of policies D1 Design, D2 Heritage and A1 Shopfronts. The proposed development would be visually attractive and sympathetic to the site and the heritage of the conservation area.
- 7.3 In considering this appeal, the Appellant wishes to draw the Inspector to the following benefits of the scheme: -
- Preservation of the integrity of the overall building as a traditional building in the conservation area.
 - Improved visual balance and connection to the rhythm of the street;
 - Create improved access routes to both current uses;
 - Replacement shopfront will undoubtedly improve the chances of securing a tenant; and,
 - Reducing Crime and antisocial behaviour through improved natural surveillance.
- 7.4 For these reasons it is respectfully requested that the appeal is allowed.

8 Planning Conditions

8.1 Should the Inspector be minded to allow the appeal, the Appellant would agree to the planning conditions to be attached to the decision notice:

1. The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Site Location Plan,
- P-003 C,
- SK001 22-01-20.

Reason: For the avoidance of doubt and in the interest of proper planning.

3. No development shall commence on site until plans and sectional details at a scale of 1:10 or 1:20 showing the proposed shopfront have been submitted to and approved in writing by the local planning authority. Such information should demonstrate the materials to be used. The development shall be constructed in full accordance with the approved details.

Reason: In order that the local planning authority may be satisfied with the details of the proposal and to accord with policies D1, D2 and D3 of the Camden Local Plan 2017.