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Roxanne Gold
The Planning Inspectorate
3C Eagle Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Ms Gold,

Appeal site: 31 Agar Grove
London
NW1 9UG

Appeal by: Mr Jim Kantarci

Proposal: Change of the lower and upper ground floor from 1x3 bed flat to a self-contained 1x2 bed flat and 1 x studio flat. (Retrospective)

I refer to the above appeal against the Council's refusal to grant planning permission. The Council's case is set out in the Officer's delegated report. The report details the application site and surroundings, the site history and an assessment of the proposal. A copy of the report was sent with the questionnaire.

In addition to the information sent with the questionnaire, I would be pleased if the Inspector could take into account the following information and comments before deciding the appeal.

1. Summary

- 1.1. The site is part of a 19th century semi-detached house located within the Camden Square Conservation Area
- 1.2. The application is for the retention of unauthorised works to convert the lawful 3 bedroom flat on the ground and lower ground floor level to one 2 bedroom flat and one 1 bedroom studio flat together with associated internal alterations. There are no changes to the upper floors, there are no external alterations involved.
- 1.3. The planning application which is the subject of this appeal was refused for the following reasons:

The development by reason of the loss of a larger three bedroom family sized home with access to private amenity space, would fail to retain existing flexible accommodation suited to the needs of families with children contrary to Policy H7 (Large and Small Homes) of the London Borough of Camden Local Plan 2017.

In absence of a S106 legal agreement to secure the development as car free, the development contributes unacceptably to parking stress and congestion in the surrounding area, contrary to policies T1 (Prioritising walking, cycling and public transport), T2 (Parking and Car Parking), A1 (Managing the impact of development) and DM1 (Delivery and monitoring) of the Camden Local Plan (2017).

- 1.4. The reasons for refusal are fully addressed in the delegated report and are not repeated here. The appellants grounds of appeal are addressed below.

2. Status of policies and guidance

- 2.1. In determining the abovementioned application, the London Borough of Camden had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case.
- 2.2. The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on 3rd July 2017. The following policies in the Local Plan are considered to be relevant to the determination of the appeal:

- Policy G1 Delivery and location of growth
- Policy D1 Design
- Policy D2 Heritage
- Policy A1 Managing the impact of development
- Policy H7 Large and Small Homes
- Policy H10 Housing with Shared Facilities

- Policy T1 Prioritise walking, cycling and public Transport
- Policy T2 Parking and Car Parking
- Policy A1 Management the impact of development
- Policy DM1 Delivery and Monitoring

2.3 The Council also refers to supporting guidance in Camden Planning Guidance (CPG) documents. The CPG documents most relevant to the proposal are as follows: Home Improvements, Trees and Amenity. The Camden Planning Guidance documents were subject to public consultation and were approved by the Council on 15 March 2019 and 26 March 2018.

- CPG Housing (2021)
- CPG Amenity (2021)

2.4 The National Planning Policy Framework was published in April 2012 and revised in March 2021. It states that proposed development should be refused if it conflicts with the local plan unless other material considerations indicate otherwise. There are no material differences between the Council's adopted policies and the NPPF in relation to this appeal. The full text of the relevant adopted policies was sent with the questionnaire documents.

2.5 The Council's adopted policies are recent and up to date and should be accorded full weight in accordance with paragraphs 31 – 33 and 213 of the NPPF.

2.6 There are no material differences between the NPPF and the Council's adopted policies in relation to this appeal.

3. Comments on appellant's grounds of appeal

Ground A: loss of three bedroom family sized property with access to private amenity space

Specific paragraphs in the appellant's statement are addressed as follows:

3.1 Paragraph 5.4 explains the statement that the Council will seek to protect 3 bedroom properties, especially amenity space, is not mentioned within the CPG and therefore can be considered fluid. However the quote of paragraph 3.196 is actually within policy H7 and therefore should be given weight when development directly affects this. Issues relating to this are also discussed within the Housing CPG as it states that *We will take full account of guidance in the Local Plan dealing with large homes and child density (paragraphs 3.197 to 3.199)*. These paragraphs

reinforce the importance of large homes and take into account aspects that make them suitable for families which includes amenity space.

- 3.2 In response to paragraph 5.9, which claims that the Council has previously sought to resist the loss of the HMO on the upper floors on the basis of it providing low cost housing, whilst also seeking to retain a large three bed unit at the expense of a studio and two bed unit which would be available at lower cost, whilst it is appreciated the economic reasons for altering the dwelling size, this is not a material consideration and cannot be considered as part of the proposal. Studio apartments are considered lower on the priority list as explained in the officer report.
- 3.3 In relation to paragraph 5.10, which speculates over what different conversions would get planning approval, converting the site into a two bed and studio was not the proposal and therefore cannot be assumed to have been approved. Furthermore this was in 2013 where our policy structure was different and SMHA had not been released.
- 3.4 With paragraph 5.11, this proposal is claimed to provide investment into the area, it is hard to see how this can be evidenced or how this is material to the decision. The Conservation Area appraisal is also mentioned apparently supporting the argument that further intensification of a single site by providing more units would lead to a less development. This argument appears incoherent as creating multiple smaller units provides more potential for occupant's wanting to extend the space. The larger the dwelling house reduces the need to extend.
- 3.5 In relation to the second reason for refusal in paragraph 5.12, which was in relation to the failure of the appellant to secure a s106 agreement for the proposal to be car free, in the event of approval this agreement would have been reached.
- 3.6 In relation to paragraph 5.13, which referenced the proposal providing adequate space for cycle parking, this was not listed as a reason for refusal and is therefore irrelevant.

4. S106 requirements and conditions

4.1 The council is liaising with the appellants regarding a draft s106 and the Inspector will be updated at final comments stage.

4.2 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 appeal site is located within a Controlled Parking Zone . Therefore, 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.

4.3 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".

4.4 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.

Compliance with CIL reg 122

4.5 This meets the requirements of the CIL Regulations in being: (i) necessary to make the development acceptable in planning terms as identified by the relevant development plan policies; (ii) directly related to the occupation of the residential units being part of the development; and (iii) fairly and reasonably related in scale and kind to the residential units. This supports key principle 9 of the National Planning Policy Framework: Promoting sustainable transport.

Conditions

4.6 The work has been undertaken. It is not considered that conditions can mitigate the impact of the development

5. Conclusion

5.1. Based on the information set out above, and having taken account of all the appellants' arguments and additional information submitted, the Council

maintains that the proposal is considered to be contrary to Policy H7 (Large and Small Homes) of the London Borough of Camden Local Plan 2017

5.2. The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns. The proposal would conflict with Policy H7 (Large and Small Homes) of the London Borough of Camden Local Plan 2017. These policies seek to ensure that all development respects local context and character, preserves heritage assets and that public benefits convincingly outweigh any less than substantial harm when the special interest of a non-designated heritage asset cannot be preserved. Indeed, the proposal is not considered to present any public benefits that would outweigh the harm identified.

5.3. For these reasons the Inspector is respectfully requested to dismiss the appeal. However, should the Inspector be minded to approve the appeal, suggested conditions are included in Appendix A.

5.4. If any further clarification of the appeal submission is required please do not hesitate to contact Ewan Campbell on the above direct dial number or email address.

Yours sincerely,

Ewan Campbell
Planning Officer
Regeneration and Planning
Supporting Communities

APPENDIX A – Suggested informative

1	Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
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