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PINS Refs: APP/X5210/W/22/3309395
Our Ref: 2022/0694/P
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APPEAL SITE

67 Mill Lane
London
NW6 1NB

APPELLANT

Mr Dante Mody

SUBJECT OF APPEAL

Appeal Statement in support of the Council's decision to refuse planning application ref: 2022/0694/P dated 14/09/2022 for the following development at the above site:

This Appeal Statement relates to the three substantive reasons for refusal of the application regarding the unacceptable harm the proposed extension would have on the character of the host building and wider area, the substandard accommodation that would be provided and the absence of a legal agreement for car free.

Reason(s) for refusal

1. The proposed extension, by reason of its height, scale, bulk and design, would represent a prominent and incongruous addition that would not be subordinate and would cause harm to the original character and appearance of the host building, adjoining terrace and the surrounding area, contrary to policy D1 (Design) of the Camden Local Plan 2017 and Policy 2 of the Fortune Green and West Hampstead Neighbourhood Plan 2015.

2. The proposed residential unit, by reason of its size, design and arrangement, would receive insufficient daylight/sunlight and outlook and would fall short of the minimum floorspace standard for a dwelling of this size. It would thus result in sub-standard accommodation, which would be harmful to the amenities of future occupiers, contrary to policies D1 (Design) and H6 (Housing choice and mix) of the Camden Local Plan 2017.
3. The proposed development, in the absence of a legal agreement for car-free housing, would be likely to contribute 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) and A1 (Managing the impact of development) of the Camden Local Plan 2017 and Policy 4 of the Fortune Green and West Hampstead Neighbourhood Plan 2015.

2. SITE AND SURROUNDINGS

- 2.1 The application site is located on the northern side of Mill Lane and relates to a three storey mid-terrace property. The property has an existing commercial unit (Class E) at ground floor level with residential accommodation (Class C3) provided on the floors above. The site is not located in a conservation area but is located within the Fortune Green and West Hampstead Neighbourhood Area.

3. RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 3.1 No relevant planning history.

4. PLANNING POLICY FRAMEWORK

- 4.1 In arriving at its current decision the London Borough of Camden has had regard to the relevant legislation (NPPF 2021), government guidance, statutory development plans and the particular circumstances of the case. The London Borough of Camden Local Plan was formally adopted on the 3rd July 2017. The policies of relevance to the appeal scheme are set out in the delegated report and decision notice. The full text of the relevant policies was sent with the questionnaire documents.
- 4.3 The Council also refers to supporting guidance documents CPG Home Improvements. The Camden Planning Guidance has been subject to public consultation and was formally approved by the Council in 2021.

5. STATEMENT OF CASE

- 5.1 The Council's case is set out in the officer's delegated report (Appendix 2) which details the proposal, site and surroundings, the site history, consultation responses and an assessment of the proposal. The following section covers

the main reasons for refusal, relating to impact of the proposals on the appearance of the host building and surrounding area, the standard of accommodation provided and car free development.

- 5.2 The officers delegated report for the refused scheme is considered to comprehensively cover the Council's reasons for refusing the application, and the Appellant's statement of case is not considered to raise any new issues that were not covered in the report at the time of determining the application. Notwithstanding this, a response to each relevant paragraph of the Appellant's statement of case is provided below.

Principle of development

- 5.3 Paragraphs 5.3 to 5.11 of the Appellant's statement of case discusses the principle of providing additional residential accommodation and why it should be supported given it satisfies local, regional and national planning policy.
- 5.4 However, the officer delegated report for the application makes clear that the principle of creating new housing at the site is supported, particularly as Policy H1 of the Local Plan identifies self-contained housing as the priority land use in the borough. Officers therefore have no further comment to make on this point.

Design

- 5.5 Paragraphs 5.12 to 5.16 of the Appellant's statement of case regurgitate various local and national policies which are relevant to the design considerations of the scheme. The statement of case then goes on to explain how the design and materials of the proposed development would match those of the host building and would thus be sympathetic to its character.
- 5.6 In an effort to justify the proposals and their impact on the appearance of the host building and surrounding area the Appellant states: *There is significant evidence that other properties within the host terrace have also extended to the rear, the scheme proposed at no. 67 would easily assimilate within the locality without compromising its character.* See image below provided by the Appellant of existing extensions to the rear of properties in the terrace.



5.7 However, as is clearly discussed in the officers report, these unsightly extensions (shown in the image above) are considered to demonstrate the harm that unsympathetic additions like this cause to the original character and appearance of the host properties and they are not considered sufficient justification for further development of this nature. Moreover, from looking at the planning application history for these neighbouring sites, it appears that a large number of the existing extensions either do not benefit from planning permission or were granted 20 to 30 years ago, which significantly precede the adoption of Camden's current design policies and guidance, which the current application is considered contrary to. As such, Officers maintain their position on the harm the size and scale of the proposed extension would cause to the appearance of the host building, adjoining terrace and wider area.

Standard of accommodation

5.8 In Paragraph 5.31 of their appeal statement the Appellant states they would be willing to re-label the first-floor bedroom changing this to a home office/study. Taking this into account the proposed floor area of 62m² would exceed that required for a 1-bedroom/2-person, 2 storey dwelling. Therefore, whilst this may in part address reason for refusal 2, in terms of inadequate floor space being provided for a 2 bed flat, it would not address the concerns the Council have with regard to the poor light levels that would be provided.

5.9 As discussed in the officers delegated report, the main living space for the proposed flat would be located in the sunken rear garden at ground floor level and its main window would look directly on to the existing high rear boundary wall at the site as well as being overshadowed by the overhang of the proposed bedroom at first floor level.

5.10 The original application included no daylight/sunlight information to demonstrate that the proposed flat would receive adequate levels light, and no information has been provided as part of the appeal. In their Appeal Statement the Appellant makes reference to the neighbouring properties on Orestes Mews which have a similar relationship in terms of windows facing boundary walls (see image below).



5.10 Therefore, whilst there may be similar examples of this arrangement officers are still of the view that the space constraints of the site at 67 Mill Lane would result in a poorly lit residential unit, if the rear yard area was to be development. As such, in the absence of any information to prove otherwise, the proposed residential unit is considered to have a very poor level of light and outlook for future occupants of the dwelling and would create sub-standard accommodation as a result.

Car-free Development

5.12 Policy T2 requires all developments in the borough to be car-free. This means no car parking spaces should be provided within the site (other than essential spaces) and that occupiers are not issued with on-street parking permits. The Council requires this obligation to facilitate sustainability and to help promote alternative, more sustainable methods of transport. 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.

5.13 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".

5.17 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. CIL Compliance: The Car-free requirement complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to necessarily mitigate against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to the parking provision for the site and impact on the surrounding highway network.

5.18 The applicant has confirmed they would agree to a s106 agreement for car free development if permission was granted.

6 CONCLUSION

6.1 Without prejudice to the Council's submissions and if the Inspector is minded to grant planning permission, it is requested that the conditions attached to this letter (Appendix 1) be imposed. The justification is set out beneath each condition.

6.2 On the basis of the information available and having regard to the entirety of the Council's submissions, including the content of this statement, the Inspector is respectfully requested to dismiss the appeal.

Yours sincerely,

Patrick Marfleet

Senior Planning Officer
Culture and Environment

Appendix 1 – Conditions

1. The works hereby permitted shall be begun not later than the end of three years from the date of this consent.

Reason: In order to comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: A16646PA-002, A16646PA-004, A16646PA-003, A16646PA-001

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

3. All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 of the London Borough of Camden Local Plan 2017.

Appendix 2 - Officer report

Delegated Report		Analysis sheet		Expiry Date:		18/04/2022	
		N/A		Consultation Expiry Date:		11/07/2022	
Officer				Application Number(s)			
Patrick Marfleet				2022/0694/P			
Application Address				Drawing Numbers			
67 Store And Premises Ground Floor Rear Mill Lane London NW6 1NB				Please refer to decision notice			
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature				
Proposal(s)							
Erection of part single storey, part two storey rear extension and conversion of ground floor retail storeroom (Class E) to provide a 2 bedroom flat (Class C3).							
Recommendation(s):		Refuse Planning Permission					
Application Type:		Full Planning Permission					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. of responses	06	No. of objections	06		
Summary of consultation responses:		Site notice: displayed from 17/06/2022 to 11/07/2022					
		<p>Six objections were received from neighbouring residents on Orestes Mews and Aldred Road and the following concerns raised.</p> <ol style="list-style-type: none"> Putting a gate in rear fence to allow access to the private road that is Orestes Mews NW6 1AP is unlawful and would amount to a trespass. In the event of an approval the 6 householders of Orestes Mews who are all extremely concerned about this would take immediate legal action against the local authority and the owner of the building. The proposed works would result in a loss of privacy due to the proximity of the proposed works to the existing properties on Orestes Mews. The proposed two storey extension is designed to extend all the way to the boundary wall with Orestes Mews. Having such a tall extension going to the boundary wall will be detrimental to the entry into the mews as it will create an overbearing tall and narrow entryway. 					
		<i>Officer comment</i>					

1. *Matters relating land ownership and trespass are a civil matter between owners/residents and do not form a material planning considered in the assessment of the current application.*
2. *The amenity impacts of the proposals are discussed in section 2.4 below.*
3. *The design and appearance of the proposed extension is discussed in paragraph 2.3 below.*

Local Groups

No comments received from local groups.

Site Description

The application site is located on the northern side of Mill Lane and relates to a three storey mid-terrace property. The property has an existing commercial unit (Class E) at ground floor level with residential accommodation (Class C3) provided on the floors above. The site is not located in a conservation area but is located within the Fortune Green and West Hampstead Neighbourhood Area.

Relevant History

None relevant to the current application.

Relevant policies

National Planning Policy Framework 2021

The London Plan 2021

Camden Local Plan 2017

A1 Managing the impact of development

D1 Design

D2 Heritage

Camden Planning Guidance 2018/2019

CPG Design

CPG Amenity

Fortune Green and West Hampstead Neighbourhood Plan 2015

Assessment

1 PROPOSAL

1.1 Planning permission is sought for the erection of a part single storey, part two storey rear extension at the site, including conversion of an ancillary commercial store room at ground floor level (Class E), to provide a two bed flat (Class C3). The proposed flat would be split over two levels, with a 2nd bedroom above the ground floor bathroom and overhanging the adjoining rear yard, and would have a GIA of approximately 62sqm.

2 ASSESSMENT

2.1 The material considerations for this application are as follows:

- Land use
- Design
- Amenity of neighbouring residential occupants
- Transport

2.2 Land Use

2.2.1 Policy H1 of the Local Plan identifies self-contained housing as the priority land use in the borough. The current proposals would provide an additional residential unit at the site which is welcomed and in accordance with Policy H1. Furthermore, the existing vacant storage area to the rear of the property is not used for retail purposes and is completely separate from the main retail unit fronting Mill Lane which would remain unaltered by the proposals. Therefore, the conversion of the store room, which has a GIA of approximately 22sqm, is considered acceptable and would not harm the commercial viability of the existing retail unit.

2.3 Design

2.3.1 Local Plan Policy D1 requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area. Furthermore, Policy 2 of the Fortune Green and West Hampstead Neighbourhood Plan states that all development shall be of a high quality of design, which complements and enhances the distinct local character and identity of Fortune Green and West Hampstead.

2.3.2 The properties in the existing terrace are considered to be attractive three storey buildings which are characterised by traditional valley roofs and have two storey closet wings to the rear. Whilst it is noted that there are a number of existing flat roofed extensions attached to these, particularly to the east of the terrace, the rear of the properties are generally considered to have a consistent arrangement of two storey closet wings adjoining the main rear elevation of the host buildings. The application site is denoted by a red dot in the aerial photo below.



2.3.3 The current proposals seek to erect a part single storey side infill and a two storey rear extension beyond the existing rear wing, which would essentially read as a continuation of the existing

two storey rear closet wing, and would be built right up to the rear boundary of the site. It is considered that the overall size, scale, bulk and height of the extension represents an unacceptable form of overdevelopment and excessive infilling of the site which would fail to appear as a subordinate addition and would cause demonstrable harm to the original character and appearance and legibility of the host property and wider terrace.

2.3.4 Furthermore, whilst it is noted that the proposed extension would be located to the rear of the site, it would still have clear visibility in long views from Aldred Road as well as shorter views from Orestes Mews. Therefore, the size and height of the proposed two storey extension would be visible from the public realm and is considered to cause harm to the character and appearance of the surrounding area.

2.3.5 In support of the proposals, the applicant has submitted several photographs of the existing rear extensions to the properties to the eastern end of the terrace at the junction with Aldred Road (namely Nos. 83 – 75 Mill Lane), which have flat roofs and extend to the rear boundaries of their respective sites. However, these unsightly extensions are considered to demonstrate the harm that unsympathetic additions like this cause to the original character and appearance of the host properties and they are not considered sufficient justification for further development of this nature. Moreover, from looking at the planning application history for these neighbouring sites, it appears that a large number of the existing extensions either do not benefit from planning permission or were granted 20 to 30 years ago, which significantly precede the adoption of Camden's current design policies and guidance, which the current application is considered contrary to.

2.3.6 Given the above, the size, scale and location of the proposed two storey rear extension is considered to cause unacceptable harm to the character and appearance of the host property, adjoining terrace and wider area.

Standard of accommodation

2.3.7 Policy H6 of the Camden Local Plan states that the Council will expect all self-contained homes to meet the nationally described space standard. The table included below shows the minimum floorspace standards that are required for 2 bed dwellings.

Table 3.3 Minimum space standards for new dwellings^[7]

Number of bedrooms	Number of bed spaces	Minimum GIA (m ²)			Built-in storage (m ²)
		1 storey dwellings	2 storey dwellings	3 storey dwellings	
1b	1p	39 (37)*			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		

2.3.6 The proposed development would create a 4 person two bedroom two storey residential unit which would have a floor area of approximately 62sqm, which falls well below the 70sqm minimum required for a dwelling of this size. Therefore, the proposed flat is considered to provide insufficient space for the future occupants of the site and would create sub-standard accommodation as a result.

2.3.7 It is also noted that the main living space would be located in the sunken rear garden at ground floor level and its main window would look directly on to the existing high rear boundary wall at the site as well as being overshadowed by the overhang of the proposed bedroom at first floor level. Therefore, in the absence of any information to prove otherwise, the proposed residential unit is considered to have a very poor level of light and outlook for future occupants of the dwelling and would create sub-standard accommodation as a result.

2.4 Amenity of neighbouring residential occupants

2.4.1 Policy A1 of the Local Plan seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. It seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of neighbouring residents.

2.4.2 The concerns from neighbouring residents on Orestes Mews are noted with regard to the impact the proposed first floor rear windows of the extension will have on their amenity in terms of increased overlooking. However, given the location of the proposed extension in relation to the existing properties on the mews, any views into neighbouring properties would be at oblique angles and would not exacerbate current levels of mutual overlooking between properties as result.

2.4.3 As such, the proposed extension is not considered to cause harm to neighbouring amenity in terms of loss of light, outlook or privacy.

2.5 Transport

2.5.1 Policy T2 of the Camden Local Plan states that the Council will limit the availability of parking and require all new developments in the borough to be car-free. The Council will not issue on-street parking permits in connection with new development and use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits.

2.5.2 No on-site parking is proposed as part of the current proposal and the proposed unit would not be eligible for on street permits. The car-free requirements would be secured by a legal agreement if the scheme was considered acceptable. In the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

3 Recommendation

3.1 Refuse planning permission