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## Appeal Decision

Site visit made on 25 July 2017

**by Helen Cassini BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 18 August 2017**

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**Appeal Ref: APP/X5210/W/17/3175095**

**Warwick Lodge, Shoot-up Hill, London NW2 3PE**

- 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 Mr Simon O'Connor of Carringtons (Michael Carrington & Associates Limited) against the decision of the Council of the London Borough of Camden.
  - The application Ref: 2016/6782/P, dated 9 December 2016, was refused by notice dated 30 March 2017.
  - The development proposed is the conversion of basement into no.2 residential units (C3) including excavation of no.5 lightwells and erection of no.2 new entrance ways within inner courtyard; demolition of outbuilding and erection of dwellinghouse (C3) to rear of site; re-landscaping communal parts to provide access road and no.28 off-street parking bays.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I have used the description of the proposal from the Council's decision notice as it provides a full description of the development.
3. Planning appeals must be determined on the basis of the development plan as it exists at the time of the Inspector's decision. During the course of the appeal, the Camden Local Plan 2017 (the LP) was adopted. As a result policies from the Camden Core Strategy Local Development Framework 2010-2025 and the Camden Development Policies Local Development Framework 2010-2025 have been superseded by policies within the LP. Both the appellant and Council have been given the opportunity to comment on the implications of this in relation to the appeal before me. Although no comments were received, I am satisfied that neither party has been prejudiced.

### Main Issues

4. The main issues of the appeal are the effect of the proposal on:
  - (i) the character and appearance of the surrounding area;
  - (ii) flooding, drainage and run-off;
  - (iii) the living conditions of future occupiers of the units, with particular regard to outlook, privacy, internal storage and noise;

- (iv) the living conditions of the occupiers of ground floor and first floor units at Kendal Court, with particular regard to outlook, light, noise and air pollution;
- (v) the use of sustainable transport and local traffic conditions; and whether the provision of a planning obligation in regard to car capped housing is necessary;
- (vi) the provision of adequate cycle parking facilities; and
- (vii) whether the provision of a Construction Management Plan and highways contribution secured by obligation has been justified.

## **Reasons**

### *Character and appearance*

5. The appeal site is a 1930's seven-storey mansion building, located in a prominent position on Shoot Up Hill. It is U-shaped around the communal courtyard sited at the rear. Set within a large plot, a mature hedgerow forms a boundary on Shoot Up Hill and Mill Lane, a number of mature trees are also present on the site. A generous amount of open space is located to the front and side elevation with Mill Lane, which slopes down towards Shoot Up Hill.
6. The ingress and egress to the site is from Mill Lane, with the private access road running the whole perimeter of the site. Car parking spaces are located at the front of the site, close to the main lawned area; with additional parking available on the northern elevation next to Kendall Court. Seven garages and a refuse storage unit are located to the rear of the site, all of which are single storey. The surrounding area is predominantly residential in character, with a number of other mansion blocks with open grounds and large Victorian semi-detached dwellings in proximity to the appeal site.
7. The proposal includes the installation of five lightwells; four of which would be located on the front elevation. From observations made during the site visit, lightwells are features which are not reflected in other properties in the area. Due to the proposed scale and materials it is considered that they would appear out of context within the more traditional residential styles of both the appeal property and surrounding properties. The position of the lightwells on the front elevation would further add to the incongruous appearance of this part of the proposal.
8. As such, the lightwells would create a conspicuous void to the front elevation of the building and would fail to appear as a subservient, architectural feature within the frontage. Due to the mature hedgerow, it is accepted that only the lightwell on the Mill Lane elevation would be visible from within the public realm. Nevertheless, all lightwells would be highly visible when viewed from the windows above; when approaching the appeal property and when using the surrounding open space. The lack of public views would be no basis for allowing the appeal proposal given the harm it would cause to the character and appearance of the appeal property and the surrounding area.
9. The additional car parking and improvement to the access road involves the loss of approximately 320 square metres of open space and lawned areas. This space would be primarily replaced with 28 car parking spaces and an improved access road. In order to provide the extra spaces, releveling of the site would

- be necessary. Such works would involve an increase in height of approximately 0.9 metres at the front of the site. In addition, an increase in height of the sloped banks on the northern elevation adjacent to Kendal Court and retaining walls would be required. No detailed information regarding the actual height of the increase of the sloped banks or walls has been submitted.
10. The current landscaping on site has limited ecological value and appears not to be part of a regular management plan. Nevertheless, the loss of approximately 320 square metres is significant in terms of the overall setting of the site. Furthermore, details regarding the impact of the proposed works in terms of the existing trees and hedgerow on site have not been submitted. Accordingly, the impact on the existing vegetation is unclear and the proposal represents a significant loss of open space within an urban setting.
  11. The proposed development also includes the demolition of the refuse storage unit and erection of a dwelling. Given the proposed single storey design, the scale of the dwelling is found to be acceptable. It is accepted that the proposed brickwork would be sympathetic to the adjacent garages. However, the proposed timber cladding, grey metal profiled roofing and fenestration would represent an alien design feature within the immediate locality. Furthermore, the new dwelling would result in a form of development that would be clearly at odds with the established character of the area and would therefore represent an incongruous feature.
  12. The existing two black metal staircases located within the rear inner courtyard are to be retained. However, an approximately 1.5 metre glazed enclosure with entry doors at ground floor level is proposed in order to offer improved security and safety to residents, as well as improving access to the lower ground floor level.
  13. The use of a substantial amount of glazing would be at odds with the existing brick elevation. Nevertheless, given the location of the enclosures the glazing would only be visible from the rear of the property. The use of glazing would also allow the existing brick elevation and metal staircase to remain visible. As such, the enclosure would not appear visually intrusive or overly prominent and is an appropriate addition to the property.
  14. Despite finding no harm in regard of the glazing, for the reasons identified the proposal is rendered unacceptable by those features which would be detrimental to the property itself, as well as the surrounding area. It is therefore found that the development would have a harmful effect on the character and appearance of the site and surrounding area.
  15. The proposal therefore fails to accord with Policies A5 and D1 of the LP and Policies 2, 17 and 18 of the Fortune Green and West Hampstead Neighbourhood Plan 2015 (the NP). When taken together these policies, amongst other things, seek to ensure development respects local character and context and does not harm the appearance or setting of the property.

*Flooding, drainage and run-off*

16. The appeal site is at risk of flooding due to surface water and hydrological flows as a result of an historic lost river. Shoot Up Hill has also been the subject of serious flooding.

17. Amongst other things, Policy A5 of the LP seeks to ensure that new development does not cause harm to neighbouring properties and the structural ground or water conditions of the area. Policy A5 further states that basement and other underground development would require the applicant to submit a Basement Impact Assessment (BIA).
18. The works required to make the existing space habitable is primarily a basement conversion, rather than only excavation works. Nevertheless, the proposal also includes the introduction of a significant degree of hardstanding to the appeal site. Excavation of approximately 65 cubic metres of soil adjacent to the appeal property would be required for the lightwells.
19. As such, due to the sensitive location of the appeal site and the absence of a BIA, insufficient evidence has been submitted in order to conclude that the proposal would not result in significant harm to the local environment and that flooding or ground instability would not occur. The proposal therefore fails to comply with the environmental protection aims of Policies A5, CC1 and CC3 of the LP. Taken together these policies, amongst other things, seek to ensure that development meets the highest environmental standards in combination with demonstrating that the proposal would not cause harm to structural, ground or water conditions of the area.

*Living conditions - outlook, privacy, internal storage and noise*

20. The outlook of the basement flats would be primarily limited to views into the lightwells. Future residents would have an unreasonable sense of enclosure due to limited views of any space outside the site or of the sky. These are features which are appropriate in creating a welcoming and comfortable home environment. Furthermore, due to the location of the proposed lightwells on the front elevation and the pavements adjacent to the lightwells, occupiers' conditions would be further harmed by potential overlooking from passers-by into the lightwells and habitable rooms.
21. In regard to the proposed dwelling, due to the single aspect design, significant overlooking in the main habitable rooms would occur due to the proximity of the communal area and the car parking spaces. Views of the communal area would be possible from the kitchen and dining/living rooms within the dwelling. However, once the proposed car parking spaces in front of and adjacent to the dwelling are utilised the outlook would be severely restricted.
22. Due to the proximity of the four car parking spaces to the single dwelling, future occupiers would also be subject to noise and disturbance as a result of the slamming of car doors and the turning over of car engines and vehicles manoeuvring to and from the parking spaces. During the day time such noise levels may not result in an impact on the living conditions of future occupiers. However, later in the evening, and particularly during the summer months when windows are open, occupiers might reasonably expect a degree of peace and quiet as they relax within their home.
23. All the proposed units would meet the minimum gross internal requirements as detailed within the Technical Housing Standards<sup>1</sup>. However at 50 square metres the single dwelling provides the minimum level of gross internal space and fails to provide the 1.5 square metres of internal storage. The dwelling

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<sup>1</sup> Department of Local Communities and Local Government – Technical Housing Standards – Nationally Described Space Standards 2015

would therefore be confined in terms of internal living space, which would be deleterious to the living conditions of future occupiers.

24. Significant harm to the living conditions of future occupiers, with particular regard to outlook, privacy, internal storage and noise would result. The proposal therefore is contrary to Policies A1 and A4 of the LP which seek, amongst other things, to ensure that the amenity of occupiers is protected.

*Living conditions – Kendal Court*

25. The proposed landscaping works include the increase in height of the sloped banks on the northern elevation adjacent to Kendal Court. Consequently, retaining walls are necessary to provide support to the raised ground level. However, detailed information relating to these works has not been submitted. In the absence of such detail it is not clear whether the living conditions of the adjacent occupiers at ground floor and first floor levels would be comprised, with particular regard to outlook, light, noise and air pollution.
26. The appellant considers that the landscaping and boundary treatment details could be controlled via a planning condition. However, if I were minded to allow the appeal, I am not satisfied it would be appropriate to impose a condition due to the lack of detail supplied. Accordingly, the proposal therefore conflicts with the provisions of Policies A1 and A4 of the LP which, amongst other things, seek to ensure that the amenity of neighbours is protected.

*Sustainable transport and local traffic conditions*

27. The proposed landscaping works would result in 28 car parking spaces on site; an increase of 13 spaces. The site has a public transport accessibility level of 6a, meaning it is in a location highly accessible by public transport.
28. The site is also located within a Controlled Parking Zone<sup>2</sup>. Observations made during the site visit confirmed that limited on-street car parking is available close to the appeal site. It is appreciated that these observations provide only a snapshot at a particular time. However, there is no substantiated evidence to suggest that this is not representative of the regular parking situation.
29. Amongst other things, Policies T1 and T2 of the LP seek to promote sustainable travel and limit the opportunities for parking. Insufficient information has been provided in order for me to establish the necessity of the additional 13 spaces or whether any are to be allocated for disabled people or for operational needs.
30. Moreover, the additional 13 spaces would be unlikely to reduce the demand for on-street parking as a further 13 car users would potentially be allocated parking permits with the CPZ. Accordingly, the proposal fails to comply with the provisions of Policies T1 and T2 of the LP and Policy 7 of the NP, as the proposal fails to promote sustainable transport usage and would not aid in reducing the level of parking stress within the area.
31. In light of these findings, and the fact that I am minded to dismiss the appeal, the need for a planning obligation in regard to car capped housing is not a necessity.

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<sup>2</sup> Controlled Parking Zone CA-Q Kilburn

*Cycle parking provisions*

32. The appellant states that cycle parking could easily be accommodated on the site. Whilst this may be the case, no details have been provided. In the absence of detail regarding location, type of provision and number of spaces, I do not consider that this matter could adequately be dealt with by the imposition of a suitably worded condition.
33. Taking the above matters into consideration, the proposal does not provide adequate cycle parking facilities. It is therefore contrary to Policy T1 of the LP and Policy 8 of the NP, which seek amongst other things to ensure that new development provides adequate cycle parking facilities.

*Construction management plan and highways contribution*

34. Policy A1 of the LP details the rationale for a Construction Management Plan (CMP) to be secured via a planning obligation. However, it remains incumbent on the authority to substantiate an obligation on a case specific basis and this has not been done. Similarly, insufficient information has been provided to justify a financial highways contribution.

**Conclusion**

35. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal would not be in accordance with the development plan and it should therefore be dismissed.

*Helen Cassini*

INSPECTOR