



Appeal Decision

Site Visit made on 26 October 2021

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2021

Appeal Ref: APP/X5210/W/21/3274819

46 Inverness Street, London NW1 7HB

- 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 Ms C Hancock against the decision of the Council of the London Borough of Camden.
 - The application Ref 2019/5075/P, dated 3 October 2019, was refused by notice dated 22 December 2020.
 - The development proposed is the demolition of the existing derelict building last used as a restaurant (Use Class A3) and the replacement with a two-storey plus basement residential property.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since determination of the application, the new London Plan was adopted on 2 March 2021 and the revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been provided with the opportunity to comment on the relevance to their respective cases of these revisions to local and national policy during the appeal process.

Main Issues

3. The main issues are:
 - The effect of the proposal on the heritage significance of the Primrose Hill and Camden Town Conservation Areas, and the heritage significance of adjacent listed buildings through effect on their settings;
 - Whether it is necessary for the development to be car-free, and;
 - Whether it is necessary to mitigate the effects of basement and other construction on the highway and living conditions of nearby residents, and if so, whether there are appropriate mechanisms in place to secure such mitigation.

Reasons

Effect on Designated Heritage Assets

4. The appeal site lies within the Primrose Hill Conservation Area (PHCA), with the boundary of the Camden Town Conservation Area (CTCA) a short distance to the east on Inverness Street. The division of Inverness Street across two conservation areas reflects the different character it exhibits. At the eastern end, it includes a pedestrianised area with several shops, market stalls and

restaurants and is an extension of the commercial character of Camden High Street. To the western end, the street exhibits the mainly residential character of the PHCA.

5. The appeal site lies within the Gloucester Crescent sub-area, which is detached from the main body of the conservation area by a railway line, but which shares a common history of development, comprising well laid out Victorian terraces, abundant trees and lower density housing set back from the street. Gloucester Crescent, immediately to the west of the appeal site, forms one of these terraces which make a strong positive contribution to the heritage significance of the PHCA. Indeed, most of the crescent is listed. No 24, to which the appeal site is joined, is a Grade II listed, four storey end-of-terrace property over basement with a recessed entrance bay to the side, stock brick and painted stucco facades. Nos 40-44 Inverness Street lie on the other side of the site and are also Grade II listed, three storey over basement, mid-19th century terraced houses in stock brick with stucco dressings, balconies to the first floor and cast iron railings to the front.
6. The appeal site contains a single storey building standing between these listed buildings, understood to last have been in use as a retail shop, and before that a restaurant, but derelict since at least 2009. It is indicated to have originated as an ancillary building to No 24, but was separated in the mid-20th century. It stands forward of the building lines of Nos 40-44 and the side elevation and entrance portico of No 24. However, despite a recent lack of upkeep, the painted render finished blends visually with the stucco finishes to the ground floors of the listed buildings to either side, and helps to soften the impact of its conflicting building line in views from either side on Inverness Street. There is some disagreement between the parties as to whether the low height of the building was intentional to preserve the gap between the terraces, or simply an accident of it being an ancillary structure. Whatever the case may be, its height reflects its ancillary status and preserves the historic separation of the two terraces at the corner of Gloucester Crescent and Inverness Street, allowing views of the rear elevations of the listed crescent. Overall, I agree with the Council's view that the building makes a neutral contribution to the significance of the PHCA.
7. The proposal would see the existing building demolished in its entirety, to be replaced by a three storey dwelling over basement, ground and first floor levels. The front elevation would feature a broad central projection, with two narrower, recessed 'wings' to either side which would extend down into lightwells serving the basement level. The shape is without precedent in the street and is largely dictated by the severe physical constraints of the site, which has no land beyond the shallow footprint of the building. The resulting two storey projection forward of neighbouring building lines would significantly increase the presence of the dwelling in the street scene.
8. The increase in height would also reduce the visible gap between the terraces, obscuring views of the rear of Gloucester Crescent and undermining appreciation of the historic street layout and relationship of the terraces that contributes to the significance of the PHCA. I accept that the gap would not be infilled entirely, but the secondary status of the existing building would be replaced with a bold, contemporary building of considerably greater massing and with a conspicuous forward projection. Although not as tall as the buildings to either side, its imposing form would nevertheless be physically and visually

dominant, in many respects inverting the relationship between the site and the listed buildings to either side by becoming the more prominent and eye-catching building in the street scene.

9. In terms of detailed design, the side wall would crudely abut the entrance portico of No 24, matching its height but extending out beyond it, visually and physically overwhelming it and creating an awkward relationship that would detract from the presence of the portico in the street scene. The design of the front elevation includes traditional elements such as a stock brick finish and black painted metal railings. However, the use of brick across the entire façade would lose the consistent rendered finish of the existing building that reflects the listed buildings to either side. The inclusion of contemporary fenestration with metal frames and an irregular pattern would also fail to respond to the surrounding context, particularly when seen against the well-ordered facades of 40-44 Inverness Street.
10. The appellant cites the development of the Cavendish School on the opposite side of the street as an influence on the design, and points to the variety to the built form in Inverness Street generally. However, whilst the school building includes contemporary finishes to the windows, it does so whilst maintaining a regular pattern to the fenestration which reflects the surrounding context. It also maintains the prevailing building line, as does other development along the street. As such, I do not find the two schemes directly comparable. In addition, the immediate context at this end of Inverness Street is one of traditional terraced townhouses, seen against which the proposal would form a discordant addition that would fail to have regard to the prevailing pattern and style of development.
11. Overall, due to its scale and form and the physical constraints of the site, the proposed dwelling would appear squeezed into the street scene in a contrived manner. It would appear visually dominant owing to its forward projection over two storeys, and would fail to respect the prevailing pattern of development in terms of materials and fenestration. As a result, it would form a conspicuous intrusion into the street scene that would jar with the listed buildings to either side, competing with them both physically and visually, and it would infill and erode the historic townscape gap which defines both terraces. Therefore, the proposal would harm the surviving historic townscape within Inverness Street, diminishing its contribution both to the character and appearance of the PHCA, and to the settings of the listed buildings to either side and the adjacent CTCA.
12. In reaching a view, I have had regard to an appeal decision referred to me by the appellant. However, beyond the decision letter, I have no further details, such as plans or the arguments of the main parties. This aside, it appears that in this case there are notable differences in the site circumstances, the nature of the proposal and the relevant considerations for the Inspector. Therefore, I do not regard this decision as comparable to the appeal before me, which I have considered on its own planning merits.
13. For the reasons set out, I conclude that the proposal would harm the character and appearance of the PHCA, the setting of the CTCA and the settings of the listed buildings at 24 Gloucester Crescent and 40-44 Inverness Street, resulting in harm to the significance of these designated heritage assets. There would be conflict with Policies D1 and D2 of the Camden Local Plan (2017) which together require development to be of the highest architectural and urban

design quality, which complements and enhances the distinct local character and identity of the area, and to preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas.

14. The harm to the designated heritage assets in each case would be less than substantial, in the language of the Framework. Paragraph 202 directs that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The provision of an additional dwelling to the Borough's housing stock, patronage of local services by future occupants and economic activity via the construction process would be public benefits, but these would be limited in scale given the size of the development. Taken cumulatively, they would not outweigh the less than substantial harm to the significance of several designated heritage assets, to which the Framework directs I must give great weight

Car Free Housing

15. Policy T1 of the CLP promotes sustainable transport by prioritising walking, cycling and public transport. Policy T2 requires all new developments in the Borough to be car-free. This would be achieved by the use of legal agreements to ensure that future occupants are aware that they are not entitled to parking permits. The supporting text to the policy sets out that its purpose is to reduce air pollution, improve the area's attractiveness for walking and cycling, and use the Borough's limited land more efficiently.
16. The site is located in a Controlled Parking Zone, and is close to bus stops and Camden Town Underground Station. As such, there is excellent access to public transport and nothing I have seen or read indicates that the requirement for the development to be car-free should be set aside in this instance.
17. The Council's Transport Planning Guidance (January 2021) sets out that car-free developments are secured by Section 106 agreements combined with Section 16 of the Greater London Council (General Powers) Act 1974, Section 111 of the Local Government Act 1972 and Section 1(1) of the Localism Act 2011. When agreed, the obligation ties into existing Traffic Management Orders which are 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.
18. From the evidence before me, additional development would add to parking stress and congestion in the vicinity of the appeal site. Therefore, parking restrictions are necessary to make the proposal acceptable and to accord with development plan policy, and I am satisfied that this requirement meets the relevant tests for planning obligations set out in the Framework.
19. However, there is no legal agreement before me which would secure such restrictions on parking permit eligibility, nor is any evidence proffered by the appellant to justify an exception to the policy. The absence of a legal agreement therefore means that the development could lead to increased vehicular movements and parking stress around the site and surrounding streets. This would conflict with the aims of Policies T1 and T2 of the CLP.

Construction Impacts

20. The appeal site is located next to the public realm. With the site having no space beyond the footprint of the building where materials and construction-

related facilities could be located, the Council raises concern that construction works to implement the appeal scheme would lead to significant disruption. The proposed basement construction is a further potential source of disruption in this case. Policy A1 of the CLP seeks to protect quality of life for residents, and sets out that mitigation measures will be required where necessary, including in respect of the impacts of the construction phase, through the use of Construction Management Plans (CMPs).

21. In this case, the Council seeks a CMP that sets out how demolition and construction work would be carried out and how the impact of movements of construction materials would be minimised during works, so as to avoid disruption or harm to traffic and pedestrians. In addition, the Council seeks a CMP implementation support contribution of £3,136, to be used to fund ongoing monitoring of compliance with the CMP, and a CMP bond of £7,500 to be used in the event the contractor fails to abide by the CMP and direct remedial action is required by the Council. The Council also seeks an Agreement in Principle (AIP), a document which sets out the design concept for works adjacent to the public highway, in order to determine if the design is robust and will avoid damage to the structural integrity of the public highway. Moreover, the Council sets out that the footway around the site is likely to sustain damage during construction, and it seeks a financial contribution to cover the cost of remedial works to the footway.
22. The Council seeks these measures though planning obligations under Section 106 of the Act. The Council argues that the use of planning conditions to secure the AIP and CMP would not be appropriate as much of the activity requiring control would fall outside of the site area and/or developer's direct control, such as works in the public highway and traffic generation, making the terms of a planning condition unenforceable. On the evidence before me, it would be appropriate to secure the AIP and CMP through a planning obligation in this case, as it would be to secure the related financial contributions in respect of monitoring and remedial action. Moreover, given the tight site area, and the inevitable impact on the public highway, I find that the financial contributions sought in respect of highways works are appropriate. In each case, I am satisfied that the contributions sought meet the tests for planning obligations set out in the Framework.
23. However, no completed planning obligation is before me to secure any of these contributions. Without this, there would be increased risk of significant disruption to highway safety and residents' living conditions from uncontrolled construction works at the appeal site, and damage to the public highway. This would conflict with Policy A1 of the CLP, and Policy DM1, which seeks to secure appropriate scheme implementation. Chagrin

Other Matters

24. The Council did not oppose the proposal in respect of the principle of basement construction, the standard of accommodation to be provided, living conditions of neighbouring occupants, energy and sustainability, subject in certain cases to planning conditions. Whilst I note the Council's conclusions in some of these matters were balanced judgements, taking into account the constrained nature of the site, nothing I have seen or read leads me to different conclusions in any of these matters. However, the absence of harm in these respects is a neutral factor in the planning balance.

25. I have had regard to two other matters raised by interested parties beyond those encapsulated by the main issues. However, from what I have seen and read, none of these would be significant enough to attract further material weight either for or against the proposal. Consequently, I do not consider it necessary to address them in further detail.

Conclusion

26. For the reasons set out, the proposal results in conflict with the development plan, taken as a whole, to which I afford significant weight. Material considerations in this case, including the provision of an additional dwelling to the Borough's housing stock, would not outweigh this conflict, and do not indicate that permission should be forthcoming in spite of the conflict with the development plan. Therefore, the appeal should be dismissed.

K. Savage

INSPECTOR