



Appeal Decision

Site Visit made on 8 November 2021

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2021

Appeal Ref: APP/X5210/W/21/3280049

59-61 Camden High Street, London NW1 7JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Nicholas Charles against the decision of the Council of the London Borough of Camden.
 - The application Ref 2020/2434/P, dated 27 May 2020, was refused by notice dated 14 April 2021.
 - The development proposed is described as erections to rear roof level and conversion of property to provide 8x dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has confirmed that the Daylight, Sunlight and Overshadowing Report (November 2020) submitted with the appeal overcomes the second reason for refusal. I am satisfied that this matter is no longer a main issue in this appeal.
3. Refusal reasons 4-6 relate to the absence of a legal agreement to secure various obligations. Despite indications that a legal agreement was being progressed during the appeal, no completed agreement is before me.
4. On 20 July 2021, the Government published a revised version of the National Planning Policy Framework (the Framework). My decision is made in the context of the revised Framework.

Main Issues

5. In light of the above, the main issues are:
 - Whether the development would preserve or enhance the character or appearance of the Camden Town Conservation Area;
 - Whether the development should make provision for affordable housing;
 - Whether the development complies with local policies relating to air quality;
 - Whether the development complies with local policies relating to 'car free' housing; and
 - Whether the development complies with local policies relating to the management of construction effects.

Reasons

Camden Town Conservation Area

6. The appeal site is located within the Camden Town Conservation Area (the CA), which incorporates the busy commercial centre of Camden High Street. The Camden Town Conservation Area Appraisal and Management Strategy 2007 (CA Appraisal) identifies that the retail and commercial area is powerfully urban in character. The buildings reflect the diverse and changing architectural styles over the last two hundred years. Terraces of early to mid-19th century houses now fronted by shops, mid Victorian stucco terraces, Victorian Gothic buildings, late Victorian and Edwardian red brick parades, imposing banks and other institutional and recreational buildings all contribute to the wide ranging variety of architectural styles. Therefore, insofar as it relates to this appeal, the CA derives some of its significance from its strong urban layout and the historic and aesthetic value of its varied 19th century architecture.
7. The appeal site lies towards the end of a terraced block of mostly three-storey height on the west side of Camden High Street. Together with its immediate neighbour No 57, they are identified in the CA Appraisal as High Victorian brick houses which make a positive contribution to the CA. Despite the unfortunate shopfronts at ground level, inappropriate modern windows, and a slightly run-down appearance generally, the front façade of the appeal site contains highly distinctive architectural detailing and a strong parapet at roof level. Furthermore, whilst the rear elevation has been considerably altered, including with an ungainly flat-roofed, two-storey extension, its original butterfly roof form remains intact, and can be appreciated in views from Miller Street and from surrounding properties at the rear of the site. As such, I agree that the appeal site contributes to the significance of the CA as a designated heritage asset.
8. It is proposed to raise the height of the rear extension and erect a L-shaped mansard roof above the original roof and enlarged extension. As the mansard would sit behind the retained parapet it would be largely shielded from street level views along Camden High Street. Nonetheless, the proposal would result in the infill and loss of the distinctive butterfly roof formation, which would diminish the positive contribution made by the appeal site to the significance of the CA as a whole. In addition, the proposal would unacceptably increase the overall bulk and massing of the rear projection, making it disproportionately large and more visually conspicuous, such that it would overwhelmingly dominate the rear elevation. The harm would be further exacerbated by the form and composition of windows at the rear, which would not respect the architectural integrity and character of this 19th century building. Therefore, both individually and cumulatively, the proposed mansard and rear extension would be an overly dominant and discordant addition at the rear of the building.
9. In reasoning the above, I acknowledge that the context in which the development would be seen at the rear is varied and of mixed quality. This includes the alterations at Nos 63-65 and 67-67A, which the proposals would reflect in scale and massing. However, whilst those neighbouring properties form part of the same terraced block, they appear to be of a much later age, and unlike the appeal site, they are not identified as positive buildings in the CA. Furthermore, their rear elevations are also less prominent

from Miller Street. As such, the poor form of development that has taken place at the rear of those properties should not be seen as validation for the introduction of harmful development at the appeal site. Similarly, other examples of mansard extensions in the CA relate to buildings of different ages, architectural styles, and settings, so are not directly comparable to the appeal site. Thus, whilst the wider setting does provide context and relevance, I must consider the appeal on its own planning merits, and I have found that the proposal would be harmful for its own specific reasons.

10. I conclude, on this issue, that the development would have a significant adverse visual effect on the appeal site and its surroundings. Accordingly, the proposal would fail to preserve or enhance the character or appearance of the CA, and would undermine its historic significance. The proposal would also conflict with Policies D1 and D2 of the Camden Local Plan 2017 (the CLP), which require new development to protect and/or enhance local character and the historic environment, including the buildings and features which make a positive contribution to it.
11. In the language of the Framework the harm to the CA would be classed as 'less than substantial', but that is nevertheless a matter of considerable importance and weight. Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal. In this case the proposal would deliver additional residential units in an accessible location. However, despite the need to boost housing supply locally and nationally, the benefits arising from a net increase in four dwellings would be small and therefore would not outweigh the harm that the proposal would cause to the character and appearance of the CA. As such, the proposal is also contrary to national policy set out in the Framework.

Affordable Housing

12. CLP Policy H4 expects a contribution to affordable housing from all developments that provide one or more additional homes. Part g) allows for a financial contribution in lieu of on-site provision where developments have a capacity for fewer than 10 additional dwellings. According to the Council's uncontested figures, the required contribution in this case is £37,980.
13. In contrast, paragraph 64 of the Framework states that affordable housing provision should not be sought for residential developments that are not major developments. This provision of the Framework has overtaken the Written Ministerial Statement (WMS) of November 2014, which initially set the threshold beneath which affordable housing contributions should not be sought from small scale and self-build development.
14. However, it is significant that the CLP, including Policy H4, was found sound and adopted after the 10 unit affordable housing threshold first became part of national policy, with an exception to the national threshold justified by local circumstances. It is evident that in the Borough of Camden small sites make a significant contribution to the delivery of affordable housing to meet an identified need. A contribution of £37,980 would help address that need, and on the evidence before me, is fairly and reasonably related in scale and kind to the development. Furthermore, there is no indication that the required contribution would make the development unviable.

15. The statutory position is that planning applications have to be determined in accordance with the development plan unless material considerations indicate otherwise. I have therefore had regard to the Framework and Planning Practice Guidance as weighty material considerations. However, for the reasons above, this does not diminish the weight to be afforded to CLP Policy H4.
16. My attention has also been drawn to Policy H2 of the London Plan 2021 (the LP2021), which now forms part of the development plan. It appears that this policy was subject to modification during its Examination, including the deletion of supporting paragraphs relating to the ability to seek a financial contribution towards the delivery of off-site affordable housing for sites of fewer than 10 units in order to align with the Framework.
17. Nevertheless, while supporting text can assist with the interpretation of the policy, it cannot add to it or change it, and is not part of the development plan. It is necessary to look at the policy as written rather than what may have been intended. The wording of LP2021 Policy H2 does not prohibit affordable housing contributions from small sites where it is justified in another plan. Amongst other things, the policy seeks to increase the contribution of small sites to meeting London's housing needs; and to diversify the sources, locations, type and mix of housing supply. In my view, a contribution towards meeting a demonstrable affordable housing need in the Borough would be consistent with these aims. Moreover, it is consistent with the strategic aims of the LP2021 for 50% of all new homes to be affordable. As such, I find no conflict between LP2021 Policy H2 and CLP Policy H4 for the purposes of this appeal.
18. A number of appeal decisions have been referred to by the appellant, but they have limited bearing on my decision given they relate to different locations, including outside of London, and that the full details are not before me. Furthermore, it appears that viability was a contributing factor in one of the appeals, while in other cases the local policy framework appears to have predated the Framework and WMS; neither of which is the case here.
19. I therefore conclude that an affordable housing contribution is necessary in the interests of the Council's housing strategy. Consequently, given the lack of any planning obligation to secure the required sum, the proposal would fail to make appropriate provision for affordable housing. Thus, the proposal conflicts with CLP Policy H4, which for the reasons above carries full weight. There is also conflict with CLP Policy DM1 which seeks to secure scheme implementation.

Air Quality

20. CLP Policy CC4 seeks to ensure that the impact of development on air quality is mitigated and that exposure to poor air quality is reduced. The Policy also states that consideration must be taken to the actions identified in the Council's Air Quality Action Plan, and development must be at least air quality neutral. Included in the Action plan are measures to minimise and control nitrogen dioxide and particulate matter associated with new developments both during its construction and its future use.
21. Camden's 'Air Quality' Supplementary Planning Document 2021 (SPD) explains that the whole of Camden is an Air Quality Management Area and that air quality is particularly severe along major roads. Major roads are those within the Transport for London Road Network and includes Camden High Street. As such, the site is located in an area of poor air quality.

22. It is clear from CLP Policy CC4 and the SPD that the requirement for an Air Quality Assessment (AQA) to be submitted is not just restricted to major developments. Even minor developments that introduce sensitive uses (i.e. housing) into an area of poor air quality triggers the need for air quality to be assessed as part of a planning application. As the development would lead to an increase in the number of dwellings at the site, the requirement for an AQA is entirely justified. However, no AQA has been submitted.
23. In the absence of an AQA I am unable to conclude that the development would suitably mitigate the potential adverse effects on occupiers of the development from exposure to poor air quality. Nor do I have any basis to conclude that the development would at the very least have a neutral impact on local air quality from its construction and future use. These are not matters which could be left to conditions. I therefore conclude, on this issue, that the proposal conflicts with the air quality aims of CLP Policy CC4.

Car Free Development

24. The site is located in central London where CLP Policy T2 requires the development to be car free. It goes on to state that the Council will use legal agreements to ensure that future occupants are aware that the Council will not issue on-street parking permits in connection with new developments. This is to, amongst other things, reduce air pollution and improve the attractiveness of the area for walking and cycling. I agree that a legal agreement is the appropriate means to secure car free development given the requirements go beyond those which can be controlled by a planning condition. The appellant is willing to enter into such an agreement; however, there is no completed legal agreement before me.
25. The lack of a mechanism to prevent future occupants from applying for parking permits means that the proposal conflicts with CLP Policy T2, the purposes of which are set out above, and CLP Policy DM1 which seeks to secure appropriate scheme implementation.

Construction Effects

26. CLP Policy A1 seeks to, amongst other things, ensure that the amenity of communities, occupiers and neighbours are protected, including during the construction phase. It goes on to state that Construction Management Plans (CMP) will be required in certain situations, and will usually be secured via legal agreements.
27. The construction phase of the proposal would inevitably generate a number of associated effects, including noise and dust. In addition, access to the site for construction purposes is highly constrained given that it is located on a busy road and in a densely built up environment with a lack of space for parking and deliveries. In these circumstances there is the potential for disruption through construction activity and associated traffic. A CMP would therefore be justified and, in this case, would be best secured through a legal agreement. Whilst the appellant is willing to enter into an agreement to secure a CMP, there is no completed legal agreement before me.
28. In the absence of a CMP, or a mechanism to secure one, the proposal conflicts with CLP Policy A1, the purposes of which are set out above, and with CLP Policy DM1 which seeks to secure appropriate scheme implementation.

Final Balance and Conclusion

29. The Framework seeks to significantly boost the supply of homes and indicates that small sized sites can make an important contribution to meeting the housing requirement of an area. The proposed development would deliver a net increase of four new dwellings, which would make a small contribution to the Council's housing undersupply as acknowledged by the latest Housing Delivery Test results¹. Nevertheless, these matters do not outweigh the significant harm I have found in relation to the adverse impacts on the character and appearance of the CA, combined with other conflicts with numerous development plan policies relating to affordable housing provision, air quality, car free housing and managing construction effects.
30. For these reasons, I conclude that the proposal conflicts with the development plan when taken as a whole and there are no considerations, including the Framework, to outweigh this conflict. Accordingly, the appeal is dismissed.

A Caines

INSPECTOR

¹ The Housing Delivery Test results published on 19 January 2021 show a measurement of 79% for Camden.