



Appeal Decisions

Hearing held on 12 September 2023

Site visit made on 12 September 2023

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th September 2023

Appeal A - Ref: APP/X5210/W/23/3320798

36 Lancaster Grove, London NW3 4PB

- 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 Vulcan Properties Limited against the decision of the London Borough of Camden.
 - The application Ref 2022/5455/P, dated 12 December 2022, was refused by notice dated 28 February 2023.
 - The development proposed is the conversion of a former fire station tower (*sui generis*) to a one-bedroom residential unit (Use Class C3) on second to fifth floors plus creation of roof terrace including installation of balustrade and removal of chimneys.
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Appeal B - Ref: APP/X5210/Y/23/3320800

36 Lancaster Grove, London NW3 4PB

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Vulcan Properties Limited against the decision of the London Borough of Camden.
 - The application Ref 2023/0156/L, dated 12 December 2022, was refused by notice dated 28 February 2023.
 - The works proposed are alterations associated with conversion of former fire station tower to a residential unit, including removal of chimneys and installation of balustrade at roof level and infill of internal central void with glazed floor panels at 2nd to 5th floors.
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Decisions

1. Appeal A – The appeal is dismissed.
2. Appeal B – The appeal is allowed and listed building consent is granted for alterations associated with the conversion of the former fire station tower to a residential unit, including removal of chimneys and installation of balustrade at roof level and infill of internal central void with glazed floor panels at second to fifth floors at 36 Lancaster Grove, London NW3 4PB, in accordance with the terms of the application, Ref: 2023/0156/L, dated 12 December 2022 and the plans submitted with it and subject to the following conditions:
 - 1) The works hereby authorised shall commence not later than 3 years from the date of this consent.
 - 2) No external works shall commence until details of the external materials to be used have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.

- 3) Prior to installation, details of the precise position and design of the fire lobbies, including doors, shall be submitted to and approved in writing by the local planning authority. The works shall be undertaken in accordance with the approved details.

Preliminary Matters

3. I have considered the two appeals concurrently, but on their own merits, because there are common matters between them. After the hearing was closed, the appellant submitted a unilateral undertaking and I have taken this into account in reaching my decision on Appeal A. In September 2023 the Government published a revised National Planning Policy Framework (the 'Framework'). The revisions relate to national planning policy for onshore wind development rather than anything relevant to the main issues in this appeal. Consequently, I have not invited further comments.

Main Issues

4. During the hearing the Council and appellant confirmed that they had reached common ground in respect of the Council's third reason for refusal pertaining to Appeal A. In summary, through the submission of a unilateral undertaking the parties agree that the proposal would be 'car free' and therefore a conflict with Policy T2 of the Camden Local Plan 2017 (LP) would not occur. As there is no longer a dispute in respect of this matter, I have not considered it further.
5. Accordingly, the main issues in these appeals are:
 - Whether the proposed development would make adequate provision for affordable housing (Appeal A).
 - The effect of the proposed development and works on the significance of 36 Lancaster Grove (listed as the Belsize Fire Station), which is a Grade II* listed building (Appeals A and B).
 - Whether the proposed development would provide adequate living conditions for future occupants (Appeal A).

Reasons

Whether the proposal would make adequate provision for affordable housing

6. Policy H4 of the LP sets a strategic target of providing 5,300 additional affordable homes by 2030/31. To achieve this the Council expects a contribution towards affordable housing from all developments that provide one or more additional homes and involve an uplift in residential floor space of 100sqm or more. Where a financial contribution is pursued, the amount is calculated based on a sliding scale linked to the gross floor space created.
7. This approach is inconsistent with Paragraph 64 of the Framework, which states that affordable housing should not be sought for residential developments that are not major developments. The Framework sets out government policy and is therefore a material consideration of significant weight. However, the supporting text to Policy H4 addresses this by explaining the very high need and supporting viability evidence. Thus, in the circumstances there is clear justification to depart from national policy.

8. The description of development on the decision notice refers to the former fire station tower as being within a *sui generis* use. This is because it did not form part of the wider conversion of the fire station to flats approved in 2017. The parties agreed at the hearing that the description of development on the decision notice is the one I should use. Accordingly, the proposal would result in additional residential floorspace. However, the amount would fall below the 100sqm threshold in Policy H4 and therefore the appeal scheme would not ordinarily trigger a contribution towards affordable housing.
9. Nevertheless, Policy H4 of the LP states that where development sites are split or separate proposals are brought forward for closely related sites, the appropriate affordable housing contribution will be comprehensively assessed for all the sites together. In this instance, the Council is of the view that the appeal scheme represents a later phase of the residential conversion of the fire station and is seeking a financial contribution.
10. Case law¹ has identified three criteria, often referred to as the tripartite test, which can be applied when assessing whether a proposal is a later phase of a single project or separate to it. These criteria are: 1) ownership; 2) whether the land could be considered a single site for planning purposes and 3) whether the proposals should be treated as a single development. Further case law² has confirmed that these criteria are not determinative but can help inform an overall planning judgment on the matter, which is often case specific.
11. In this instance, the flats have only recently been completed and occupied. Before this the fire station, including the tower, was in a single ownership in use for a single planning purpose. The fire station and tower still constitute a single building with shared access points. The original approvals³ also included reference to the tower as part of the conservation management plan. Therefore, 'ownership' and 'planning purpose' indicate a close relationship between the tower and the rest of the fire station. On these measures, the conversion of the entire fire station should therefore be considered a single project for the purposes of calculating an affordable housing contribution.
12. In respect of the third criterion, works to convert the rest of the fire station have now finished and therefore a new contractor would be required to convert the tower, which would be an independent building project. This is a material point that supports the appellant's submission that the tower conversion would be a separate planning project or new chapter. However, it is not determinative in this instance when having regard to the overall planning history, which I have briefly set out below.
13. The Council initially gave pre application advice in 2015 regarding the conversion of the entire fire station, including the tower, to apartments. At this stage, the conversion of the entire fire station was approached as a single planning project. The Council did not support the conversion of the tower and therefore the project was split. Two applications were made in 2016 to convert different parts of the fire station and an application to convert the tower was made in 2018. This was done to ensure that any objection to the conversion of the tower would not hamper the entire project.

¹ *R (Westminster City Council) v First Secretary of State and Brandlford Limited* [2003] J.P.L 1066

² *New Dawn Homes Ltd v SSCLG* [2016] EWHC 3314 (Admin)

³ 2016/0745/P and 2016/5813/P

14. The applications submitted in 2016 were for eleven and five flats respectively. They were determined at the same time with the affordable housing contribution derived from the aggregate total of 16 homes. As a result, applications concerning different parts of the fire station were agreed to constitute a single project for the purposes of calculating affordable housing. That same principle can be applied to the appeal scheme.
15. Indeed, the appellant took that view in 2019 when appealing the Council's decision on the first application to convert the tower to a dwelling. In that instance the appellant completed a planning obligation committing to provide an affordable housing contribution. The appellant also confirmed at the hearing that if that appeal had been successful, the tower would have been converted concurrently with the other flats as part of a single project.
16. Subsequent Inspectors⁴ dealing with similar appeals endorsed the view that the conversion of the tower was a later phase of a single planning project and therefore triggered a contribution to affordable housing under Policy H4. The latest decision was made in May 2022. Thus, when submitting the application for the current scheme in December 2022, the planning statement confirms that an affordable housing contribution would be made.
17. Therefore, the evidence before me demonstrates that the conversion of the tower has consistently been viewed as a later phase of a single development project, namely the conversion of the entire fire station to flats. The passage of time between the approval of the two applications made in 2016 and this appeal does not alter that position. This is because the delay has simply come about on account of intervening appeals relating to the tower conversion being dismissed, rather than the tower conversion being a separate project. Even if they were separate, the conversions of the tower conversion and the rest of the fire station would be very closely related projects.
18. The appellant has referred to an appeal decision dating from 2017⁵ (the 'Old Kent Road appeal') where the tripartite test was applied. In that case the Inspector found that the scheme then under consideration represented an extension to the original permission rather than a phased component of it. Some of the circumstances are similar to the case before me, but others are not, such as the development plan context. In this respect, Policy H4 refers to separate but closely related sites.
19. In addition, the Old Kent Road appeal was made after the works were completed and had only been pursued after the commercial success of the original development had been demonstrated. This seemed to be an important point in the Inspector's judgment. This is different to the circumstances before me, as the first application for the tower conversion was made before the works on the rest of the fire station were finished. The appellant has also referred to an application in Tunbridge Wells, but again there was a different policy context and circumstances such that this is of limited relevance.
20. Accordingly, the tower and fire station conversions would form closely related projects. To treat them otherwise for the purposes of calculating the affordable housing contribution would be an artificial split. As such, the provision of an affordable housing contribution would be necessary to make the development

⁴ APP/X5210/Y/19/3222128, APP/X5210/W/20/3246051 and APP/X5210/W/21/3279988

⁵ APP/A5840/W/17/3174783

acceptable in planning terms, would be directly related to the development and would be fair and reasonable in scale and kind. The most appropriate way to secure the contribution towards the provision of affordable housing would be through a planning obligation, but no such obligation is before me.

21. The Council and appellant have not agreed heads of terms on this matter. This is unsurprising given the appellant's view. Moreover, the circumstances around the absence of a planning obligation are not exceptional. As a result, the imposition of a negatively worded condition as a means of securing the planning obligation, as discussed in the Planning Practice Guide⁶, would not be appropriate in this instance. A positively worded condition would not meet the test of enforceability as there would be nothing to prevent commencement before affordable housing is secured.
22. Consequently, an appropriate mechanism to secure the provision of affordable housing is not before me and therefore the proposal would be contrary to Policy H4 of the LP.

The effect on the significance of the listed building

23. The Belsize Fire Station was constructed in the early 20th Century, which was a creative period of fire station design in London. In this respect, the structure is a distinctive building that fuses rich and carefully detailed arts and crafts domestic architecture with the functional requirements of a fire station. Indeed, much of the building has the appearance of a row of cottages that skilfully harmonises with the appearance and scale of surrounding domestic properties. As a result, it is a very high-quality example of a civic building from the era and is well preserved despite being converted into flats.
24. The tower has a similar brick finish to the rest of the building and incorporates decorative panels and brickwork. Accordingly, the quality of the building's architecture is carried through into the tower despite its utilitarian function. I share the view of a previous Inspector⁷ that the quality is such that the tower has a picturesque appearance which is akin to a church tower.
25. Internally, the tower is more functional in appearance with exposed brick walls, concrete floors and little in the way of ornamentation. The appellant's Heritage Statement (HS), and the list description⁸, explain that the tower was used for drills in confined spaces. The absence of soot or staining suggests that training did not use smoke, but the layout indicates that the tower was probably designed to support search and rescue drills. This is because the rooms are accessed from a tight spiral staircase, are small, have low ceilings and awkward spaces, sometimes divided by up stands⁹. It would also have been easy to block the windows to create a dark training environment.
26. The tower has been designed with apertures in the centre of the floors surrounded by balustrades. The HS explains that this design feature was probably intended to allow somewhere to dry out hoses, although there is little evidence this actually occurred. Nevertheless, the analysis in the HS is plausible and supported by English Heritage's guidance note 'London's Historic

⁶ Paragraph: 010 Reference ID: 21a-010-20190723

⁷ APP/X5210/W/20/3246051 & 3246053

⁸ This is an amended list description that includes references to several sources

⁹ The upstands may have been later insertions to support water tanks though

Fire Stations' and the list description, which explain that the functionality of historic fire station towers often included space to dry old-fashioned hoses.

27. In addition to a space for training and hose drying, it is possible that the structure also functioned as a watch tower given the commanding views of the surrounding area from the roof. Thus, the tower was probably more than an architectural feature. It had a functional purpose and the ability to understand and experience this provides evidential value of how it operated.
28. The conversion of the tower to a dwelling would inevitably result in a diminution in the ability to experience its original historic functions. That said, the appellant has tried to address this by following a light touch approach that would leave the original layout and functionality legible without harming the structural integrity of the tower. Consequently, the conversion has been skilfully designed around the surviving features, such as the spiral staircase and plan form. The doors would be glazed and light weight, matching those used elsewhere in the fire station. The upstands would also be incorporated into the design and the layout would make best use of the windows. The central floor apertures would be glazed as a means of leaving the hose drop as a recognisable feature. The exposed brick wall finish would also be retained, and the concrete floors would have a simple polished finish. As a result, the history and original design of the tower would remain highly legible.
29. That said, some features would be removed. Of these, the Council is concerned by the increase in height of an arch at fourth floor level, the repositioning of the balustrades to the roof and the removal of the chimney stacks. They also have concern about filling the apertures with roof lights.
30. In respect of the latter three alterations, Inspectors have previously considered them to be acceptable because the works would not harm the special interest of the listed building. There is a clear public interest in ensuring like applications are considered in a like manner, but a departure from the views of previous decision makers is permissible if there is a clear justification for doing so. In this instance, the Council were unable to point to any new evidence that would justify such a course of action. Previous Inspectors would have been able to properly judge the effects of the alterations even with the central apertures boarded over. As a result, their findings carry significant weight.
31. That said, the assessment by previous Inspectors focused on the architectural value of the building. I share the view that the removal of the chimney stacks and balustrades would not be harmful in this respect. The roof lights would also be a well-founded and innovative intervention that would reference the apertures. Nevertheless, it is possible that the chimneys were incorporated into the tower in the way they were to aid training. Moreover, the balustrades help to articulate the hose drop. These features therefore assist in articulating and understanding the historic function of the tower. In addition, increasing the height of the arch would dilute the deliberately awkward arrangement of the spaces and therefore diminish the ability to experience the training area. That said, the general plan of the tower, including the hose drops, would remain legible without these features and the arch would still be narrow. Overall, the loss would result in some limited harm to the evidential value and significance of the listed building, which would not be preserved.
32. As the identified harm would be 'less than substantial', Policy D2 of the LP requires it to be weighed against the public benefits of the proposal. In this

respect, the appeal scheme would deliver a new home at a point in time when the Council are currently only able to demonstrate a four-year housing land supply. There would also be modest economic benefits.

33. The scheme would also result in the reuse of a building/previously developed land. In this respect Paragraph 152 of the Framework encourages the reuse of existing resources, including the conversion of existing buildings, as a means of reducing carbon emissions. Paragraph 120 of the Framework states that the reuse of suitable brownfield sites in settlements should attract substantial weight. 'Suitable' in this context is a reference to broad land use principles rather than a requirement to consider the effects of the proposal and then work backwards to ascertain its suitability.
34. In addition, I am mindful that the tower does not currently have a purpose. The rest of the fire station has been converted to flats which means access to, and use of, the tower is constrained. A previous Inspector¹⁰ concluded that a non-residential use would be unrealistic, and I share this view. Thus, a residential use is likely to be the most viable. Moreover, the conversion now proposed would be light touch for the reasons already given. As a result, the appeal scheme would be the optimal viable use of the building.
35. In coming to this view, I have carefully considered the Council's suggestion that the tower is a robust structure that is already in its optimal viable use. This is, the Council submits, because provision for its maintenance was secured through a previous planning obligation, which requires a conservation management plan¹¹. This plan requires regular monitoring of the tower, but the provisions relating to routine maintenance do not seem to take things further than the general obligation on an owner to look after a listed building.
36. The Planning Practice Guide¹² explains that sustaining heritage assets in the long term often requires an incentive for their active conservation, and that putting the asset to a viable use is likely to lead to investment in maintenance over the long term. Accordingly, converting the tower to a home would provide the incentive to maintain it without reliance being placed on a conservation management plan, which may ultimately need to be enforced if it is to take effect. This is a further point in favour of the scheme.
37. Listed buildings are a finite cultural resource and make up only a small proportion of the built environment. As a result, the Framework requires that great weight to their conservation and the more important the asset the greater the weight should be. In this instance, the building is Grade II* listed. Likewise, the statutory duty to have special regard to preserving a listed building¹³ is a matter of considerable importance and weight. This is not an instruction to dismiss a proposal that would harm a listed building, but it nevertheless provides a strong presumption in favour of preservation.
38. In applying the balance, the benefits of the scheme carry weight of a high order would be of sufficient force to outweigh the modest harm that would occur. Accordingly, the harm would have clear and convincing justification and therefore a conflict with Policy D2 of the LP, and Policy HC1 of the London Plan, in so far as they are relevant, would not occur.

¹⁰ APP/X5210/W/21/3279988 DL30

¹¹ A copy of which is appended to the Council's Statement of Case.

¹² Paragraph: 015 Reference ID: 18a-015-20190723

¹³ See Sections 16(2) and 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990

The effect on the living conditions of future occupants

39. As already explained, the rooms in the tower were probably designed to be awkward small spaces. It therefore follows that using them as living accommodation would present some challenges and is unlikely to be especially inclusive. There is also an awkwardness to arranging the accommodation over four floors linked by a narrow spiral staircase. Nevertheless, the scheme has been carefully designed to respond to the site constraints and thus balance the benefits from reusing the listed building with access.
40. The third floor would be a bedroom with borrowed light from the glazed aperture. The borrowed light would be at its weakest in this room and probably below relevant guidance¹⁴. Moreover, the aperture could be covered up at a higher level by a rug or other furniture. That said, the space is also lit by a window which is not unduly obscured from the rest of the room by walling. In the circumstances, the room would have reasonable light and outlook. The ceiling height would meet the minimum standard of 2.3m, although not the preferred standard of 2.5m. The upstand would also be integrated into the space as a means of dividing the bed from the rest of the room and there would be adequate storage and space to move around. The third-floor bedroom would therefore provide adequate living accommodation.
41. The fourth floor would incorporate a shower room. The ceiling height would be 2.2m and therefore marginally below the minimum standard. However, it would be generous in size and naturally lit by two windows and borrowed light from the glazed aperture. The upstand would be reused as a shower tray and thus incorporated into the space. Again, there would be adequate storage. Overall, the shower room would also provide adequate living accommodation.
42. On the fifth floor the living space would be lit by a generous roof light and the kitchen by a window. The latter would provide a good outlook to the kitchen but not the living area given the narrow and low walkway in between. The ceiling height would also be at its lowest in the apartment (2.19m) and the arch with the kitchen may require some occupants to duck. Thus, the living area on the fifth floor, which is likely to be intensively used, would have a compromised outlook and low ceilings.
43. Nevertheless, there is a rationale to placing the living accommodation on this floor as there are no upstands. The living space would also flow pleasantly with the roof terrace and would have adequate space for storage, furniture and to comfortably move around. Future residents may also enjoy the character and quirkiness that living in the space would entail.
44. Overall, the proposed apartment would not feel unduly claustrophobic and would not be impractical for a single person to occupy. The proposed apartment would not fall below minimum floor space requirements and would provide generous external amenity space due to the large roof terrace. Moreover, as a conversion of a listed building some flexibility is necessary, especially as a residential use would be the optimal viable use of the tower. In general, the accommodation would be of sufficient quality.
45. In conclusion, and when considered in the round, the proposed apartment would provide adequate living accommodation. Accordingly, the appeal

¹⁴ The scheme in a previous application (2018/4394/P) with fewer internal walls failed would have failed to achieve the Average Daylight Factor then recommended by the Building Research Establishment

scheme would adhere with Policies H6 and A1 of the LP, which seek to secure proposals that safeguard living conditions. Similarly, there would be no overall conflict with Policy D6 of the London Plan.

Other Matters

46. In respect of both appeals, I share the view of the Council, appellant and Belsize CAAC that the external works would preserve the character and appearance of the Belsize Conservation Area. Various concerns have been raised by interested parties including reservations regarding noise and disturbance, which I have noted. However, given my findings it has been unnecessary to address these matters further as Appeal A has failed.

Conclusions

Appeal A

47. The appeal scheme would provide adequate living conditions and the harm to the significance of the listed building would be outweighed by public benefits. However, the proposal would be at odds with Policy H4 of the LP. As a result, there would be a conflict with the development plan taken as a whole. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise.
48. As a material consideration Paragraph 11 of the Framework is relevant on account of the Council currently being unable to demonstrate a five-year housing land supply. In such circumstances the development plan policies most important to determining the application should be deemed out of date. In this instance¹⁵ Paragraph 11 states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The benefits of the scheme have already been set out and these would outweigh the less than substantial harm to the listed building. However, added to this harm would be the failure to make adequate provision for affordable housing. Therefore, the totality of harm would significantly and demonstrably outweigh the benefits of the scheme. This is not a material consideration that indicates Appeal A should be determined otherwise that in accordance with the development plan.
49. Accordingly, the proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. The appeal has therefore failed.

Appeal B

50. The proposed works would result in some limited harm to the listed building, principally its historic value. However, this harm would be outweighed by public benefits. Accordingly, for the reasons given, the appeal has succeeded.
51. In allowing the appeal it is necessary to impose the standard condition requiring commencement within three years. To safeguard the architectural character of the listed building it is necessary to impose a condition that materials and details of the fire lobbies are approved by the Council. Unlike a planning permission, there is no provision to apply for a minor material

¹⁵ As the public benefits of the proposal would outweigh the harm to the listed building, the application of policies in the Framework that protect designated heritage assets do not provide a clear reason for refusal.

amendment to a Listed Building Consent. Consequently, a drawings condition would have no purpose and would be unnecessary.

Graham Chamberlain
INSPECTOR

APPEARANCES

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INTERESTED PARTIES

Marco Pedrosa
Jane Butler

Local Resident
Local Resident

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

- Planning Obligation relating to the 2017 permissions