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## Appeal Decision

Site visit made on 11 March 2025

by **F Harrison BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16<sup>th</sup> April 2025

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### Appeal Ref: APP/Y5420/W/24/3352689

### 28 Shepherds Close, London N6 5AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Ms Candice Lake against the decision of the Council of the London Borough of Haringey.
  - The application Ref is HGY/2024/1953.
  - The development proposed is the erection of a detached, three-bedroom family dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appeal site has been subject to two previous appeals for residential development, including an appeal decision<sup>1</sup> dated 31 December 2020. I have taken the previous Inspector's conclusions into account in my decision. Nonetheless I have reached my own findings based on the circumstances of the present case.
3. A revised ground floor plan has been submitted that shows a level access to the ground floor WC, and a revised first floor plan includes an additional annotation to confirm that the window serving the bedroom can be of one-way glass for privacy. The nature and extent of the revised plans do not fundamentally alter the appeal proposal, and the Council had the opportunity to comment on them as part of their appeal submissions. As such, I have accepted Proposed Ground Floor Plan UK 145b-21 Rev 2 and Proposed First Floor Plan UK 145b-22 Rev 2.

### Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area, bearing in mind it would be within the Highgate Conservation Area (HCA).

### Reasons

5. The appeal site accommodates an area of hardstanding that is bounded by a close boarded timber fence. It is located at the end of Shepherds Close, a residential cul-de sac that falls sharply away from Shepherds Hill, comprising staggered dwellings arranged in terraces. The site is adjacent to a steep retaining wall of a block of garages at Eton Court and is separated from 26 and 27 Shepherds Close

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<sup>1</sup> APP/Y5420/W/20/3257208, as provided by the Council

by a footway. To the rear of the site is the tree planting associated with Parkland Walk which provides a verdant landscaped backdrop to the cul-de sac.

6. The site falls within the HCA, and in line with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I have paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. From my observations and the HCA Character Appraisal and Management Plan (2013) (HCA Appraisal), the significance of the HCA, insofar as is relevant to this case, is primarily derived from its cohesive character and architectural quality where the underlying topography has shaped the pattern of development and green spaces.
7. The HCA Appraisal identifies 6 – 27 Shepherds Close and the Eton Court garages as negative contributors. However, I share the view of the Inspector in the previous appeal decision that owing to the high degree of architectural consistency within Shepherds Close, arising from the staggered dwellings as a strong and appropriate response to the steeply sloping topography, the properties have design merits. For these reasons, the inspector found the close to contribute positively to the underlying urban form and quality of the HCA. Having visited the locality, I see no clear reason to depart from my colleague's findings on this matter.
8. The appearance of the appeal site is different to that at the time of the previous appeal decision. It no longer has verdant qualities and so does not form part of the green vista towards Parkland Walk. Nevertheless, and while an uninteresting enclosed area of hardstanding, in providing relatively open views towards the landscaped backdrop, the appeal site contributes positively to the HCA.
9. I have carefully considered the changes made to the proposed development to address the Council's concerns and those of the previous inspector. However, despite a reduction in footprint, scale and massing, the proposal would partially fill the existing gap between the footway and the retaining wall. In doing so it would overly intensify the quantum of built form in the immediate area, altering the relationship between open space and buildings in this urbanised setting. It would not make a positive contribution to place having regard to the urban grain and the pattern of development as a consequence.
10. Despite the appeal site being private land with no public access, the site has clear open qualities in terms of its role and function in the street scene. While the site is enclosed by a timber fence, owing to the height of the boundary treatment it is not completely enclosed and its open qualities are appreciable above the fence and provide an element of spatial relief from the otherwise dense built form of the locality. Even taking account of the proposal's reduced footprint and scale from the previous scheme, the spatial relief provided by the site would largely be lost through the introduction of a two-storey dwelling.
11. Although relevant standards and mathematical calculations of site coverage would be achieved, including appropriate separation distances from No 26 and 27, the proposal would have an awkward relationship with the surrounding uniform rows of dwellings. Even if there are examples of contemporary housing and infill development on back land sites elsewhere in the wider area, this does not indicate that the proposal would sit comfortably within its immediate context. The visual intrusion of the proposed development would be exacerbated by its design and

appearance including its flat roof, limited step down from the adjacent garages and use of wood cladding on its southern elevation which would have a limited relationship with the strong aesthetic qualities of the prevailing character and appearance in the area. While the proposal would provide visual interest in comparison to the blank brick retaining wall the proposed development it would be incongruous within its context and would not respect the distinctive architectural style of the nearby dwellings, as required by Policy DM1 of the Development Management DPD (2017) (DMDPD).

12. The proposal would not be seen in longer distance views; however, the appellant's visual appraisal shows that it would be readily apparent from numerous vantage points within Shepherds Close. Moreover, the appraisal does not include any views towards the site from the south, proximate to No 26 and 27. Accordingly the selected viewpoints in the appraisal are not representative of the full visual effects of the proposed development.
13. The proposed landscaping would soften the proposal in some views from the south and south-east and would contribute to partially reinforcing the green vista that previously existed. Even though views of the landscaped backdrop would remain, the proposal would narrow these views and the increase in built form would draw the eye and harmfully interrupt them, more than the existing fence does. As such the proposal on this back land site does not relate appropriately and sensitively to the established street scene, contrary to DMDPD Policy DM7. While the proposal would meet other criteria of this policy, any conformity with the remaining relevant criteria does not negate the identified conflict.
14. Overall, the proposal would fail to preserve or enhance the character or appearance of the HCA and would harm its significance as a whole. It would fail to meet the requirements of section 72(1) of the Act and the provisions within the National Planning Policy Framework (the Framework) which seek to conserve and enhance the historic environment. For the purposes of the Framework, the harm to the conservation area as a designated heritage asset would be less than substantial. In these circumstances, the Framework states that the harm should be weighed against the public benefits. I will return to this matter later.
15. For the reasons given, I conclude that the proposal would be unduly harmful to the character and appearance of the area, failing to preserve the HCA and harming its significance. It would be in conflict with policies SP11 and SP12 of Haringey's Local Plan Strategic Policies (2013), policies DM1, DM7, DM9 and DM12 of the DMDPD and policies DH2 and DH10 of the Highgate Neighbourhood Plan (2017). Amongst other things, these policies require development to be of a high-quality design that respects local context, character and historic significance. Heritage assets, including conservation areas, will be conserved, including through sensitive redevelopment, provided that they are compatible with and/or complement their special characteristics and significance.

### **Other Matters**

16. While the appellant has expressed frustrations with the Council's handling of the case, this has not affected my consideration of the planning merits of the scheme. Efforts have been made to consult with local residents and there is support for the scheme from some in the community, however this is not a reason in itself to allow harmful development.

## Heritage Balance

17. The harm to the significance of the HCA would be less than substantial. The Framework requires that great weight should be given to the conservation of heritage assets, irrespective of the level of harm. Any harm to the significance of a designated heritage asset should also require a clear and convincing justification. Nevertheless, the Framework also requires such harm to be weighed against any public benefits, including where appropriate its optimum viable use.
18. The proposal would contribute one three-bed dwelling to the housing supply in a sustainable location. Family dwellings are said to be much needed, however there is no substantive evidence that the proposal would meet an identified local need. Notwithstanding the considerable support for boosting the supply of homes and the contributions small sites can make, there is no clear evidence that the provision of housing is decisive in the context of the area's housing requirement. Therefore, given the scale of the proposal I give the delivery of one dwelling limited positive weight.
19. There are also likely to be modest, time-limited economic benefits from the construction stage and some limited economic benefits arising from council tax income and expenditure by future occupiers, albeit there is limited guarantee of the extent to which this would be directed to local businesses or services. In response to crime in the area a fence has been installed at the site which is said to have considerably enhanced security within the close. There would be some limited public benefits to safety arising from the proposal from the removal of the fence which would reinstate the line of sight into the stairwell area of the garages at Eton Court and the passive surveillance into this area from the proposed dwelling.
20. The proposal would make efficient use of previously developed land in an accessible location. However, these matters, and any other policy compliance, including the quality of the proposed residential accommodation, living conditions of existing occupiers, access and privacy are neutral factors which weigh neither for nor against the appeal scheme. Similarly, there is no clear evidence that the proposal's sustainable design and construction would deliver over and above what is required by development plan policy and so this matter is a neutral factor.
21. The appellant indicates that the proposal is the optimum viable use for the site. However, the Planning Practice Guidance<sup>2</sup> sets out that area based designated heritage assets, such as conservation areas, will not themselves have a single use. Therefore, securing the optimum viable use of an area-based asset is not a relevant consideration when assessing the public benefits of a development proposal affecting a conservation area.
22. In having special regard to the desirability of preserving or enhancing the character or appearance of the HCA, overall, even cumulatively, the sum of the public benefits of the proposal would not outweigh the harm to the significance of the designated heritage asset that I have identified, and the considerable importance and weight this carries.

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<sup>2</sup> Paragraph: 016 Reference ID: 18a-016-20190723

## Conclusion

23. I have found harm in respect of the proposal's effect on the character and appearance of the area and the significance of the HCA, in conflict with the development plan and the Framework.
24. The appellant proposes that the Framework's presumption in favour of sustainable development should be applied. However, there is no substantive evidence to suggest that the approach set out in Framework paragraph 11 (d) should be applied in this particular case. The decision should be made in accordance with the development plan unless material considerations indicate otherwise. In any event, part i. of paragraph 11d) and footnote 7 of the Framework confirm that permission should not be granted if the application of the Framework's policies that protect areas or assets of particular importance, including designated heritage assets, provide a clear reason for refusing the proposed development. The heritage balance conclusion above provides a clear reason for dismissing the appeal.
25. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations, including the Framework, that indicate that I should take a decision otherwise than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

*F Harrison*

INSPECTOR