

Planning Department
London Borough of Camden
5 Pancras Square
London
N1C 4AG

Our ref: 2543

22 December 2023

Dear Sir/Madam

Application for Planning Permission- 27 Sherriff Road, London, NW6 2AS

This statement is written in support of the application for planning permission submitted to the London Borough of Camden ("the LPA") for 27 Sherriff Road, London, NW6 2AS ("the Site").

The application seeks permission to erect a single storey rear extension.

The proposed description of development is:

Erection of Single Storey Rear Extension

The application should be read in conjunction with the following documents:

- This Covering Letter
- Application Form
- Application drawings prepared by Yoop Architects
- Application fee of £322 (Consisting of £258 of application fee and £64 of service charge).

Site Description



The site is a three storey dwellinghouse. The site is in the northern side of Sherriff Road. To the rear of the property is the London Underground and opposite is Hilltop Road. The surrounding area is dominated by residential development.

Planning Policy

Sections 70 of the Town and Country Planning Act 1990 and 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless other material considerations [our emphasis] indicate otherwise. In the case of this application, the development plan consists of the following:

- The London Plan (2021)
- London Borough of Camden Local Plan (2017)
- London Borough of Camden Policies Map (2017)

Planning History

The applicant received confirmation that Prior Approval was not required for the erection of two standalone rear extensions under application reference number **2023/2987/P** on 11 December 2023. This established the fallback position for the erection of the proposed larger rear extension. This fallback position is explained further below, but is considered to be a material consideration which should be given significant weight in the determination of this application. A full set of these ‘approved’ plans and elevations are submitted with this application.

The Applicant can construct an extension which will be the same depth and height of what is being proposed as part of this application, without planning permission. Therefore, will have the same material effect to neighbouring residents as this proposal.

Furthermore, a certificate of lawfulness was considered to be permitted development for the erection of a dormer extension was approved (**ref 2023/2907/P**) on 16 October 2023.

Planning Assessment

Design



The proposed development involves the erection of a rear extension which is 6.0m in depth and 3.2m in height sloping to 3.0m. The proposed rear extension would be almost the full width of the property, apart from a small area set back on the East Elevation, to give the exact same relationship to neighbour as the extensions allowed under **2023/2987/P**.

Local Plan Policy A1 sets out that The Council will seek to protect the quality of life of occupiers and neighbours. We will grant permission for development unless this causes unacceptable harm to amenity.

Local Plan Policy D1 sets out that the council will support applications which propose to improve the character of the area and the design of host buildings, and it is considered that this proposal will be compliant with the aims of that policy. It is therefore considered that the proposals are compliant with the Development Plan Policies in terms of design.

Camden Supplementary Planning Guidance- Home Improvements (January 2021) sets out the principles of how to design ground floor rear extensions. Furthermore, it sets out key design principles and criteria to be considered during the course of the application.

The heights and depth have consent through the recent decision that Prior Approval was not required (ref: 2023/2987/P). The Prior Notification application has two extensions which were split for technical reasons. The two extensions result in a development which would not secure open plan living that is popular in modern day living. The prior notification proposals included a small gap of 1m (please see drawing number 068/AP/230) which this application seeks to remove.

It is considered that the design of the proposed rear extension would be more in-keeping with the character of the area as the design of the proposed extension is of a more suited with the form, function and scale of the area.

Amenity

In terms of amenity during the consultation of neighbours for the Prior Notification application, the proposals did not receive any objections and therefore it was considered that prior approval was not required.



The depth and height of the extension therefore is considered acceptable by the neighbours of the site. These proposals will not result in any further overlooking, overshadowing or other impacts on amenity than what has already been granted under the materially significant prior notification process.

It is therefore considered that the proposed development will be compliant with Camden Local Plan Policy A1 which has the ambition to ensure that proposed development will not harm neighbouring amenity.

It is therefore considered that the proposals are acceptable and comply with the London Borough of Camden's Development Plan Policies Specifically Policies D1 and A1.

Fallback Position

It is considered that case law should be a material consideration in the assessment of this application. The case in question is:

- The Court of Appeal in *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314

It is considered that the confirmation that Prior Approval is not required must be given significant weight as a material consideration for this application. The Applicant can construct an extension which will be the same depth and height of what was being proposed as part of the application, without planning permission. Therefore, will have the same material effect to neighbouring residents as this proposal. s38(6) of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the relevant policies in the development plan for the area, unless other material considerations indicate otherwise.

We highlight a case which went to the Court of Appeal in 2017 which clarified when a 'fallback' development may be a material planning consideration for an alternative development scheme.

The case in question is *The Court of Appeal in Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314. One of the challenges in the case was whether there was a 'real prospect' of development under the Class Q GPDO rights on the lack of contemporaneous evidence that the landowner had contemplated such development.



When judging the case, Lord Justice Lindblom confirmed the legal considerations in determining the materiality of a fallback position as a planning judgement were:

- the basic principle is that for a prospect to be a “real prospect”, it does not have to be probable or likely: a possibility will suffice;
- We highlight a case which went to the Court of Appeal in 2017 which clarified when a ‘fallback’ development may be a material planning consideration for an alternative development scheme.
- We highlight a case which went to the Court of Appeal in 2017 which clarified when a ‘fallback’ development may be a material planning consideration for an alternative development scheme.
- there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand.
- He then concluded that the clear desire of the landowner to develop, and maximise the value of, the site was sufficient to demonstrate there was a real prospect to the Class Q GPDO fallback position in this case.

Though the Court of Appeal Decision relates to the GPDO Class Q, it is considered that the principle of a fallback development applies to this case. The applicants have a real prospect of the rear extension being constructed as they benefitted from Prior Approval not being required and that a clear desire from the appellant in this case demonstrates the fallback position that the appellant benefitted from the requirements of Article 3 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (as amended). During the time that the decision which we are appealing was being determined, the appellant benefitted from this fallback position and therefore should be given significant material weight.

Conclusions

We believe that the proposed works will- meet the requirements set out in the London Borough of Camden’s Development plan, specifically Policies D1 and A1 by being of high-quality design which reflects



the character of the host building and surrounding area while ensuring that the amenity of the neighbouring area are protected.

We welcome the Council's consideration of this information and trust that all the enclosed allows you to successfully register and progress the application positively. Accordingly, we respectfully request that this application for planning permission is approved, in line with the statutory timescales.

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