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PROPOSED ERECTION OF SECOND-FLOOR REAR EXTENSION

LONDON BOROUGH OF CAMDEN

PLANNING APPLICATION REFERENCE 2025/0051/P

GROUND OF APPEAL

1 INTRODUCTION

- 1.1 This appeal relates to a proposal to extend the property at 3 Lawford Road, London NW5 2LH (“the Appeal Site” or “the Appeal Property”) to the rear at second-floor level to serve as a playroom for the appellant’s children and as a room for guests, as required.
- 1.2 The Appeal Property is a semi-detached house on three floors that was built in the 1860s. Planning permission was granted in 2011 for rear and side extensions as a replacement of earlier rear extensions; this permission has been implemented.
- 1.3 The Appeal Property is not a statutorily listed building and is not within any local list of buildings of architectural or historic interest.
- 1.4 The Appeal Property lies within the Bartholomew Estate Conservation Area (designated in 1992) and, specifically, within sub-area 2 of the Conservation Area, referred to as Dartmouth Family Estate.
- 1.5 A full description of the Appeal Property, its townscape setting and the design and materials of the proposed extension is set out in the Heritage and Planning Statement (January 2025) prepared by the appellant’s architect.
- 1.6 The appellant’s planning application was refused planning permission for the following reason.

“The proposed extension, by reason of its scale, location and design, represents an overbearing addition to the building that disrupts the relationship of the host building to its wider building group, resulting in harm to the character and appearance of the host building, wider building group and the Bartholomew Estate Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017 and policy D3 of the Kentish Town Neighbourhood Plan 2016.”

- 1.7 The planning application was determined by the Chief Planning Officer of the Council under delegated powers and was not referred to the Planning Committee for decision.
- 1.8 The planning application is a householder application and is therefore subject to the expedited appeal procedure (see paragraph 007 of Planning Practice Guidance: Appeals).

## 2 LEGAL FRAMEWORK

- 2.1 The Appeal Property is situated within a conservation area. The relevant legislative requirements are summarised below.
- 2.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with adopted development plan policies unless material considerations indicate otherwise. In this case, the development plan comprises the Camden Local Plan 2017 and The London Plan 2021.
- 2.3 The Appeal Site lies within a designated conservation area and is subject to the requirement under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that new development should preserve or enhance the character or appearance of the Conservation Area.

### 3 RELEVANT PLANNING POLICIES AND GUIDANCE

#### Local policies

- 3.1 The development plan is the adopted Camden Local Plan 2017. The relevant policies are considered to be:
- policy D1 Design; in particular, parts (a), (b) and (e); and
  - policy D2 Heritage; in particular, part (e) relating to conservation areas.

These are the policies that are material for the purposes of section 38(6) of the 2004 Act.

- 3.2 Policy D3 of the Kentish Town Neighbourhood Plan 2016 is cited in the decision notice. This states that “Proposals must identify and draw upon key aspects of character, or design cues from the surrounding area” including “appropriate design cues including grain, building form, scale, height and massing, alignment, modulation, architectural detailing, materials, public realm and boundary treatments”. This policy adds little to the considerations set out in policies D1 and D2 of the Camden Local Plan.
- 3.3 The Planning Officer’s delegated report refers to the Bartholomew Estate Conservation Area Statement (1992), but it should be noted that this statement does not form part of the development plan and was prepared many years before the introduction of the Government’s codified policies on heritage matters (in the National Planning Policy Framework and in Planning Practice Guidance). The Conservation Area Statement is not cited in the decision notice, and I submit that only limited weight should be accorded to its contents.

#### National Planning Policy Framework 2024

- 3.4 Paragraph 2 of the National Planning Policy Framework 2024 (NPPF) states that the policies in the NPPF are a material consideration in the context of section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 3.5 The NPPF, at paragraph 7, states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF indicates that sustainable development has three overarching and interdependent objectives: an economic, a social and an environmental objective.
- 3.6 Paragraph 124 states that planning policies and decisions “should promote the effective use of land in meeting the need for homes and other uses”.

- 3.7 Paragraph 125 of the NPPF states that planning decisions should, in the context of making effective use of land, support opportunities to use the airspace above existing residential premises for new housing and that local planning authorities “should allow upward extensions (including mansard roofs) where the development would be consistent with the prevailing form of neighbouring properties and the overall street scene”.
- 3.8 Paragraph 207 states that in determining applications that affect heritage assets:
- “..... local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. ....”.
- 3.9 Paragraph 210 states that when determining applications affecting heritage assets, local planning authorities should take account of:
- “a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) the desirability of new development making a positive contribution to local character and distinctiveness.”
- 3.10 Paragraph 215 states:
- “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including where appropriate securing its optimum viable use.”

#### Planning Practice Guidance: Historic Environment

- 3.11 Paragraph 018 of this Guidance includes the following:
- “Where potential harm to designated heritage assets is identified, it needs to be categorised as either less than substantial harm or substantial harm in order to identify what policies in the National Planning Policy Framework apply.”
- “..... works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all ....”.

- 3.12 Paragraph 018 of Historic Environment states that an unlisted building that makes a positive contribution to a conservation area is individually of lesser importance than a listed building.
- 3.13 Paragraph 020 states that public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in paragraph 8 of the National Planning Policy Framework.

#### 4 THE APPELLANT'S CASE

- 4.1 The Heritage and Planning Statement submitted with the planning application fulfils the procedural requirements of paragraph 207 of the National Planning Policy Framework 2024 and explains the potential impact, if any, on the heritage asset affected, which is the Bartholomew Estate Conservation Area.
- 4.2 The Heritage and Planning Statement is comprehensive, well researched and provides a convincing argument in support of the proposed rear extension.

##### Summary

- 4.3 The arguments in favour of the proposed extension are clearly set out in the appellant's Heritage and Planning Statement and these grounds of appeal, and the main points may be summarised as follows.
- . The proposed rear extension could not be viewed from Lawford Road and therefore would not affect the conservation significance of that road.
  - . Any view of the rear of 3 Lawford Road from Patshull Road would be limited, transient and therefore de minimis due to the high boundary wall adjacent to the footpath together with well-established vegetation behind the wall.
  - . The form and pitch of the roof of the extension would produce an addition to the Appeal Property that would be unremarkable, unobtrusive and in keeping with the built form of the Conservation Area.
  - . The extension would have no detrimental impact on the amenities of the neighbouring properties in terms of outlook, privacy, daylight and sunlight; this is acknowledged in the Planning Officer's delegated report.
  - . The provision of a second-floor addition would avoid the need for the erection of a garden room (which could be constructed as permitted development), thereby maintaining the integrity of the private amenity space.

- The proposed extension would not appear out of place in its context given that second-floor rear extensions form part of the established character of the Conservation Area and, indeed, have been given planning permission by the Council since the Conservation Area was designated.
- When deciding to grant planning permission for a second-floor rear extension at 37 Lawford Road (in 2015; reference 2015/0943/P), the Council stated, in the Officer's report, "However, second floor rear extensions above the existing first floor rear extension have become a common feature along the rear elevations of Lawford Road". This permission has been implemented. In this context, the Council was unjustified in refusing planning permission.

### Reasoning

- 4.4 Prior to the determination of the planning application, the appellant's architect obtained from the case officer the views of the Council's conservation team. That report is included in the documents sent with this appeal. However, the conservation team's comments (which are undated and unsigned) are not cited in the 'Consultations' section of the Officer's delegated report. It is not clear whether the conservation team's views were taken into account in the determination of the application but, on the assumption that they were, it is necessary to respond to that document.
- 4.5 The appellant's Heritage and Planning Statement includes, at sections 2.4 and 2.6, various examples of first- and second-floor extensions that have been constructed over the years at the rear of properties in Lawford Road and Patshull Road, arguing that these extensions form part of the established character of the area and that the proposed addition to 3 Lawford Road would not appear out of place in this context. These rear extensions are:
- 15 Lawford Road    reference 2017/2855    second-floor extension;
  - 37 Lawford Road    reference 2015/0943    second-floor extension;
  - 39 Lawford Road    reference PL/9400050    second-floor extension;
  - 48 Patshull Road    reference 2006/5176    part first-floor extension;
  - 57 Patshull Road    reference 2022/5065    first-floor rear and side extension; and
  - 70 Patshull Road    reference 2008/5179    ground-floor and first-floor extension.
- 4.6 At section 2.6, the Heritage and Planning Statement provides Google Earth photographs that show other second-floor extensions at Nos. 13, 19, 25, 31, 33, 41 and 45 Lawford Road (please note that the bottom photograph, No. 13, is marked, in error as No. 17).
- 4.7 The conservation team's comments seek to lessen, or dismiss, the relevance of these examples of rear extensions when describing the significance of the Conservation Area.

On the second page of its comments (above the list of extensions in the vicinity), the conservation team states:

“..... all of these extensions are historic (i.e. granted prior to the current raft of guidance documents) and therefore cannot be taken as a precedent.”.

The same comment is made in relation to the extensions at 37 Lawford Road, 15 Lawford Road, 70 Patshull Road, 57 Patshull Road and 48 Patshull Road. At the end of its document, the conservation team states, in relation to the subject application, “The granting of this application would set a most unwelcome precedent for the conservation area” yet dismisses the argument that the existence of ten second-floor rear extensions in the immediate vicinity has already set such a precedent.

- 4.8 Developments that have been carried out in the vicinity of the Appeal Site plainly need to be taken into account since those developments form an important part of the physical context of the Appeal Site and therefore contribute to its character. The character of the Conservation Area (as with any other settlement) derives from its actual form and appearance, including any extensions, alterations and works that have been carried out over time both before and after the Conservation Area was designated. Extensions and alterations to buildings will have come into existence in one of three ways:

- pre planning control (i.e. before 1947);
- post planning control and unauthorised but lawful due to the four-year rule under section 171B of the Town and Country Planning Act 1990; or
- post planning control and authorised by either a lawful development certificate or a planning permission.

Whatever the circumstances of their creation, all extensions and alterations (other than those that are unauthorised and not immune from enforcement action) will necessarily form part of the townscape context of the Appeal Site and must be taken into account when assessing the impact of the appeal proposal on the significance of the Conservation Area.

- 4.9 It is clear from the Camden Local Plan that the Council accepts that when applying its design and conservation policies D1 and D2, it must have regard to the character of an area as it exists. In the explanatory text supporting policy D1 (a policy that requires new development to “respect local context and character” and “preserve the historic environment and heritage assets”), paragraph 7.4 includes:

“Careful consideration of the characteristics of a site, features of local distinctiveness and the wider context is needed ..... How places have evolved historically and the functions they support are key to understanding character.”

- 4.10 The view put forward by the Council’s conservation team that “the rear elevations [of the houses in Lawford Road] show a limited range of stylistic differences” (top of page two) and that “there is no planning history that supports a second-floor extension” (first

sentence of the conclusion) is at odds with the facts and the Planning Officer's analysis of previous applications. With respect to the application in 2015 for a second-floor rear extension at 37 Lawford Road (see first item of section 2.4 of the Heritage and Planning Statement), the decision notice granting planning permission includes:

“However, second floor rear extensions above the existing first floor rear extension have become a common feature along the rear elevations of Lawford Road and within close proximity of the application dwelling including No. 33, 39, and No. 41 Lawford Road.”

and

“..... the proposed extension is not considered to be harmful to the character or appearance of the host building, street scene or the Bartholomew Estate Conservation Area.”

- 4.11 In relation to a planning application in 2008 for a ground- and first-floor rear extension at 70 Patshull Road (see fourth item of section 2.4 of the Heritage and Planning Statement), the Officer's delegated report states, inter alia:

“Therefore, it is considered that there is no consistent pattern of development established along the rear of the properties.”.

- 4.12 The Heritage and Planning Statement (fifth item of section 2.4) refers to a planning permission granted in 2022 for a full-width extension at ground-floor level, a half-width extension at first-floor and a two-storey side extension at 57 Patshull Road. It will be noted that the Councils' conservation team, perhaps because the grant of that permission undermined its objection relating to the proposal at 3 Lawford Road, distances itself from that decision, implying that planning permission was unjustified and that “the planning officer appears not to have followed protocol” in relation to consultation with others. However, in my view, the grant of that permission was appropriate in the light of the varied character of the rear of the properties in Lawford Road and Patshull Road and was consistent with the comment in the Officer's delegated report relating to the proposed rear extensions at 70 Patshull Road that “there is no consistent pattern of development established along the rear of the properties” (see paragraph 4.11 above). There is no evidence that the determination of the planning application was not the subject of the normal checks and balances, and senior officer oversight, that exists within the Council's planning department.

- 4.13 It should be noted that all of the planning permissions for rear extensions, including the second-floor extensions at 15, 37 and 39 Lawford Road, cited at paragraph 4.5 above were granted after the passing of the Planning (Listed Buildings and Conservation Areas) Act 1990, after the designation of the Conservation Area in 1992 and after the publication of the Bartholomew Estate Conservation Area Statement. The second-floor rear extensions at 15 and 37 Lawford Road were permitted after the publication of the National Planning Policy Framework (the original version was issued in 2012) and at a



time when the Camden Local Plan was either adopted or at an advanced stage of preparation. It cannot therefore be argued that these permissions were granted at a time when the policy context was more favourable than it is at present.

4.14 Having regard to the arguments put forward in these grounds of appeal, it is considered that the proposed extension would cause no harm to the Conservation Area, so that it is unnecessary to assess whether any public benefits arising from the development would outweigh any harm. However, should the Inspector conclude that the extension would cause less than substantial harm to the Conservation Area (the Council does not argue that the development would cause substantial harm in the context of paragraph 214 of the NPPF), the countervailing public benefits from the proposed development would be as follows:

- the development, by sourcing labour locally, could contribute to strengthening the skill base of the local workforce and potentially create ongoing opportunities for future projects;
- it would provide additional work opportunities for local tradespeople and professions, which in turn would support the local economy;
- the proposed extension would optimise the utility, flexibility and capacity of the dwelling in line with the general aims of the NPPF; and
- the extension would help to make efficient and effective use of the site, in line with the objectives of paragraph 124 of the NPPF.

### Conclusions

4.15 Having regard to the facts and planning arguments explained in the Heritage and Planning Statement and in these grounds of appeal, the following conclusions may be drawn.

4.16 The proposed second-floor rear extension is subject to two overriding policy requirements under policies D1 and D2 of the Camden Local Plan and the National Planning Policy Framework:

- that the development should preserve or enhance the character of the Conservation Area; and
- that the development should respect local context and character.

4.17 Local context and character in this case includes at least ten second-floor rear extensions, a form of development that, by the Council's own admission, has become a common feature along the rear elevations of Lawford Road.

- 4.18 The proposal to erect a second-floor rear extension at 3 Lawford Road is consistent with the well-established character and appearance of this part of the Bartholomew Estate Conservation Area.
- 4.19 The proposed use of contemporary materials for the roof (zinc) is consistent with the use of contemporary design and materials elsewhere in this part of the Conservation Area (e.g. 15 Lawford Road and 57 Patshull Road).
- 4.20 As the proposed extension would respect local character and context, it follows that the development would preserve the character and appearance of the Conservation Area and would result in no harm to its significance as a heritage asset.
- 4.21 Recent planning permission for second-floor rear extensions (37 Lawford Road; 15 Lawford Road) have been granted in the context of planning policies at local and national level that are currently in force (Camden Local Plan, Conservation Area Statement, National Planning Policy Framework, Planning Practice Guidance). Therefore, it cannot reasonably or fairly be argued that a similar development at 3 Lawford Road would conflict with development plan or national policy.
- 4.22 The Inspector is therefore respectfully urged to allow this appeal and grant planning permission subject to any appropriate planning conditions.

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23 April 2025