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PLANNING STATEMENT

Proposal: S73 variation to planning condition number 2 attached to planning appeal decision notice dated 10th April 2105 (Planning Inspectorate reference APP/X5210/W/14/300070) in respect of planning application submitted to the London Borough of Camden for a mansard roof extension to create additional floor to 3rd floor flat (Council ref: 2014/4058/P).

Site Address: 85 Jamestown Road NW1 7DB

1.0 Introduction

- 1.1 This application seeks planning permission for the retention of a number of items the majority of which have been identified in a Breach of Condition Notice (BCN) served by the Council on 11th December 2018 (Council ref: EN17/0067). The items referred to in the BCN and for which permission is now being sought are:

Jamestown Road frontage

- The metal framed double doors and windows on the new infill side extension;
- The new window opening accommodating a new single glazed metal framed at third floor level of the original building;
- The two new single glazed metal framed windows in the new roof extension at fourth floor level ;

The Oval Road frontage

- The two new replacement window frames with single glazed panels at third floor level of the original building;

- The two new single glazed metal framed windows in the new roof extension at fourth floor level;

1.2 Not included in the BCN but also included in this application are:

- The raised party wall chimney stack;
- The retention of a rooflight in the new mansard roof extension.

2.0 Planning Background

2.1 Planning permission was granted on appeal on 10th April 2015 for a mansard roof extension to create an additional floor to the 3rd floor flat (Planning Inspectorate appeal reference APP/X5210/W/14/3000701). On grant of permission the scheme was implemented but with some variations. Those variations included those listed above in the aforementioned section. Other changes were also made in conjunction with the new mansard roof element, namely the provision of a new door onto a small roof terrace and the erection of railings. These particular alterations are not included in this application as they are the subject of a separated planning process under cover of planning application 2018/1486/P and to be the subject of an appeal.

2.2 A copy of the appeal decision letter (APP/X5210/W/14/3000701 is attached to this statement

2.3 With regard to the variations the subject of this application, some of these were considered acceptable to the Council while others were not. Those considered acceptable were the raised party wall chimney stack and the new roof light in the mansard roof extension as confirmed in the Council's delegated report to planning application 2017/5170/P. Those considered not acceptable related to the new windows at third floor level to the original building and at fourth floor level to the new roof extension. These windows, on both the Jamestown Road and Oval Road frontage, were the subject of a planning application seeking their retention (Council ref: 2017/5170/P). That application was refused on 7th February 2018 and on 9th March 2018 a planning enforcement notice (Council ref: EN17/0067) was served.

2.4 A combined appeal was lodged against the refusal of the planning application and on grounds (a) & (c) of the enforcement notice. This appeal (Planning Inspectorate ref: APP/X5210/C/18/3200487) was subsequently quashed on 15th October 2018 due to the poor construction of that notice. In his decision letter, the planning inspector opined that the Council could serve another enforcement notice so that the appellants could have the second opportunity to appeal but this round against a better constructed enforcement notice. The Council however decided not to take this course of action but chose instead to serve the BCN (EN17/0067) for which there is no right to appeal.

2.5 This application under S.73 of the Town & Country Planning Act 1990 has therefore been made to ensure that, subject the Council's determination on this application, the applicant's right to appeal still exists and can be exercised if necessary.

2.6 The plans submitted with this application have been collated so as to show the timeline of the variations. These are:

Drawings	Drawing No.	Title
Approved on Appeal	348-113-P	Proposed Top Floor Plan
[APP/X5210/W/14/30070]	348-114-P	Proposed Roof Plan
	348-207-P	Proposed Front Elevation [Jamestown Road]
	348-209-P	Proposed Front Elevation [Oval Road]
As Built	348-113-B	As-Built Top Floor Plan
	348-114-B	As-Built Roof Plan
	348-207-B	As Built Front Elevation [Jamestown Road]
	348-209-B	As Built Front Elevation [Oval Road]
Now Proposed	348-113-PA	Proposed Top Floor Plan
[This Application]	348-114-PA	Proposed Roof Plan
	348-207-PA	Proposed Front Elevation [Jamestown Road]
	348-209-PA	Proposed Front Elevation [Oval Road]

3.0 The Proposal

3.1 The proposal is to essentially to seek the retention of the building elements listed below. They include some elements which remain unchanged and some with suggested minor design variations.

3.2 The list is as follows:

Jamestown Road Frontage [Drawing No. 348-207-PA]

- The windows and door openings in the new infill extension. These are to be retained in their existing form.
- The single glazed metal framed metal window at third floor level to the original building. The single glazed window will be retained but will be subdivided with strips to match the frame so as to pick up on the design of the sub divided window panes in the sliding sash windows below at the lower levels.

- The two single glazed metal framed metal windows at fourth floor in the new roof extension. These are to be retained in their existing form.
- The raised party wall chimney stack to be retained as built.

Oval Road Frontage [Drawing 348-209-PA]

- The single glazed metal framed metal windows at third floor level to the original building. The single glazed windows will be retained but will be subdivided with strips to match the frame so as to pick up on the design of the sub divided window panes in the sliding sash windows below at second floor level.
- The single glazed metal framed metal windows at fourth floor in the new roof extension. These are to be retained in their existing form

The Roof [Drawing 348-114PA]

- The new roof light. This is to be retained in its current form.

4.0 Planning Assessment

The windows and door openings in the new infill extension on the Jamestown frontage

- 4.1 The windows and door openings in the new infill part of the site are considered to be entirely appropriate and compatible with modern design of infill itself. It is noted that the final design and finish of the various doors and openings in the front elevation of the new infill appeared not to have been the cause for concern of the Council prior to the serving of the BCN. It remains unclear, in the absence of any justification from the Council to date, the reasons to necessitate the alterations to the windows and doors incorporated in the new infill as specified in the BCN.

The windows at third floor and fourth floor level in the original building on both the Jamestown Road and Oval Road frontages

- 4.2 The same case is made here as was in the appeal against the planning enforcement notice that was subsequently quashed on 15th October 2018. In summary, it is considered that the single paned windows, as installed, are appropriate and visually compatible with the recently refurbished and extended locally listed building. They give a well balanced contemporary feel to the building without being conspicuous or without detracting from the visual composition of the existing elevations to the street. To this extent the new windows are considered to be a suitable alternative to the sash window types originally approved as part of the refurbishment and extension works. No conflict arises therefore with regard to the local plan policies which are Policy D1 (Design) and Policy D2 (Heritage) of the adopted Local Plan (2017).

- 4.3 However, as a way of a compromise to address the Council's resistance for the retention of these windows, a proposal is put forward in this application to modify the single paned windows at third floor level so as to give the appearance of sub divided panes. By doing so it would, from street level, continue the pattern of sub divided window panes as seen in the elevational detailing at the lower levels of the elevations fronting Jamestown Road and Oval Road. As a result, the single paned windows at fourth floor level, which are to be left unchanged, would be seen in design terms a subservient feature that would not be conspicuous in relation to the original building or out of keeping with the mansard roof extension of which they form part.
- 4.4 It is noted both in Council's delegated report (Council ref:2017/5170) and the Council's enforcement appeal documents the quote taken from the earlier 2015 appeal decision letter (Planning Inspectorate ref: APP/X5210W/14/3000701) regarding the use of traditional materials and the attachment of a planning condition for the necessity to protect local character. These comments have been used to justify the Council's stance on insisting on one design only for the windows at third and fourth levels and that design being sliding sash windows with sub divided window panes. However the comments made by the Inspector appear to reflect a general encouragement of the use of materials rather than a specific design solution. It does not suggest 'a one design only' solution to the approved extension.

The party wall chimney stack

- 4.5 There appears to be no issue over the increase in height of the chimney stack on the party wall. In the Council's delegated report in respect of planning application 2017/5170 it is noted that the case officer was satisfied in terms of design and amenity with regard to the chimney structure as built.

The roof light

- 4.6 There is no objection raised by the Council with regard to the new rooflight installed on top of the mansard roof as this is not visible from the street or any adjacent properties.
- 4.7 Photographs of the Jamestown Road and Oval Road are attached as Photosheet One to this statement.

5.0 Conclusion

- 5.1 The application is a S.73 application for the variation of the approved plans forming part of the original planning permission granted on appeal (Planning Inspectorate ref: APP/X5210/W/14/30070). The variation sought is for the retention of the following building features:

Jamestown Road frontage

- The metal framed double doors and windows on the new infill side extension;
- The new window opening accommodating a new single glazed metal framed with a small design variation to the window pane at third floor level of the original building;
- The two new single glazed metal framed windows in the new roof extension at fourth floor level ;

The Oval Road frontage

- The two new replacement window frames with single glazed panels, with a small design variation to the window pane, at third floor level of the original building;
- The two new single glazed metal framed windows in the new roof extension at fourth floor level;

Roof Level

- The raised party wall chimney stack;
- The retention of a rooflight in the new mansard roof extension.

5.2 For the reasons set out above, the Council is respectfully requested to give support to this application.

Appeal Decision

Site visit made on 19 March 2015

by N McGurk BSc (Hons) MCD MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 April 2015

Appeal Ref: APP/X5210/W/14/3000701
85 Jamestown Road, London, NW1 7DB

- 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 Jamestown Road LLP against the decision of the Council of the London Borough of Camden.
 - The application Ref 2014/4058/P, dated 18 June 2014, was refused by notice dated 8 September 2014.
 - The development proposed is a mansard roof extension to create additional floor to 3rd floor flat.
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Decision

1. The appeal is allowed and planning permission is granted for a mansard roof extension to create additional floor to 3rd floor flat at 85 Jamestown Road, London, NW1 7DB in accordance with the terms of the application, Ref 2014/4058/P, dated 18 June 2014, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The Council's officer's report refers to the proposal comprising "a mansard roof extension to create a 3rd floor flat." This is not the case and the proposed development is that described above.
3. Permission was previously granted at the appeal site for a residential development¹. This permission was for the change of use of part ground floor from B1 office to self-contained studio and three storey side infill extension to extend residential flats on 1st, 2nd and 3rd floor levels and associated use of basement as cycle storage.
4. The application the subject of this proposal is to extend a flat for which planning permission already exists. It is not, as the Council's officer's report suggests, an application to create a new dwelling.
5. The Council's second and third reasons for refusal relate to Lifetime Homes and the provision of a Section 106 Agreement. The Council acknowledges that a signed 106 Agreement already exists in relation to the planning permission for residential development, but then goes on to require that a Section 106

¹ Ref 2014/0635/P.

Agreement be signed in relation to a proposed extension to one of the approved flats. No substantive reasoning is provided to demonstrate why this should be the case. I note that the existing planning permission allows extensions to three flats without requiring them to be car free because they were existing dwellings and that the creation of a new ground floor flat was approved subject to the provision of the Section 106 Agreement.

6. Furthermore, the appellant notes and the Council does not disagree, that the provision of Lifetime Homes is already a condition of the planning permission for residential development. There is nothing before me to demonstrate that the proposal could not comply with Lifetime Homes requirements as far as is reasonable.
7. The Council's second and third reasons for refusal and submissions appear somewhat confused. This confusion is compounded by the Council's suggestion that, were the appeal to be successful, conditions relating to the occupation of units should be imposed. As above, the application the subject of this appeal is for an extension to a flat with planning permission. Conditions relevant to the residential development for which planning permission has already been granted already exist.
8. Taking all of the above into account, this decision letter focuses on a single main issue, as set out below.
9. Amendments to the London Plan were published in March 2015 and the Council was provided with the opportunity to comment on the changes, with reference to this appeal but did not raise any concerns.

Main Issue

10. The main issue in this case is the effect of the proposed development on the character and appearance of the area.

Reasons

11. The appeal property is a tall building at the corner of Jamestown and Oval Road. At the time of my site visit there was a commercial use at ground floor level and the upper floors were vacant.
12. The appeal property forms part of an attractive terrace of locally-listed period properties along Oval Road. It is one storey taller than the similar properties it adjoins, but appears to be lower than the property at the other end of the terrace, No 12 Oval Road, a large traditional building which appears to be in commercial use. During my site visit, I noted that the different heights of buildings along Oval Road in this area form a distinctive part of its character and make a significant contribution to visual interest.
13. As well as period properties, Oval Road is notable for a variety of modern office and residential blocks. These rise up to seven stories in height and front the pavement edge. Whilst the facades of these buildings generally respect the appearance of the period properties present along Oval Road, their significant height, overall scale and immediate proximity to the road result in them dominating their surroundings from all directions.

14. As a corner building, the appeal property also faces out onto Jamestown Road. Here, it is distinguished from a long, attractive terrace of period properties by its notable differences in height, façade and fenestration. The existing residential planning permission allows for a gap between the appeal property and the long terrace of properties above ground floor level to be filled with a development that would further distinguish the appeal property from its immediate neighbours.
15. The opposite side of Jamestown Road to the appeal property is, like Oval Road in this location, dominated by tall, modern office and residential buildings, most notably by a seven storey block situated directly opposite the appeal property.
16. The proposal would add a mansard roof to the appeal property. Given the immediate presence of large, dominant, modern office/residential blocks, this would appear as a modest addition. The proposal would be set back from the façade on each side of the building fronting the streets and as a mansard, would slope away from the building fronts. These characteristics, together with the use of traditional materials would, I find, ensure that the proposal would appear sympathetic to its surroundings.
17. Further to the above, I note that the appeal property is already distinguishable from adjoining period properties, due to its differences in appearance. In particular, I note that the appeal property is taller than its immediate neighbours and find that the addition of a mansard roof would be in keeping with this distinctive characteristic. I also observed during my site visit that many properties in the terrace along Jamestown Road already have mansard roof extensions. The proposal would be in keeping with these.
18. In addition, the proposal would, to some considerable degree, “book-end” the short terrace of period properties along Oval Road and relate well to the larger building at No 12 Oval Road. It would also, I find, complement the original features of the appeal property and to some notable extent, result in an appropriate blend of old and new, in keeping with the overall character of the area.
19. The proposal would not have an adverse impact on the skyline, as suggested by the Council, but would simply appear as a modest and sympathetic addition relative to the significant scale and height, and the striking, and to some degree, attention-grabbing appearance, of the large modern blocks around it. The proposal would appear modest and sympathetic in both distant and near views.
20. Taking all of the above into account, I find that the proposal would not harm the character and appearance of the area. It would not be contrary to the Framework, to Core Strategy² policy CS14, or to Development Policies³ policy DP24, which together amongst other things, seek to protect local character.

Other Matters

21. Whilst its reasons for refusal do not make specific reference to the presence of nearby Conservation Areas, the Council, in support of its case, states that the

² Camden Local Development Framework Core Strategy 2010-2025 (2010).

³ Camden Local Development Framework Development Policies 2010-2025 (2010).

proposal is not within a Conservation Area but that it sits between two Conservation Areas and that "its relationship to these is important." I agree. Taking my findings above into account I am satisfied that the proposal preserves the setting of the nearby Conservation Areas.

22. Further to the above, I note in particular that it is the scale and form of the existing five-to-seven storey properties close to the appeal site that draw the eye in distant views and that the proposal would appear as a modest and sympathetic addition.
23. Also in support of its case, although not specifically referred to in its reasons for refusal, the Council states that there is a Grade II Listed building, Gilbey House, across the road from the site.
24. Gilbey House is a tall building of modern appearance and with garages and air vents for ground floor car parking at ground floor level. Its height and striking, bright white appearance, leads it to dominate that part of Jamestown Road in which it is located. The proposed development would appear as a minor domestic addition in relation to Gilbey House and would have no impact on the Listed Building or its setting. In this specific regard, I am mindful that the Council provides no substantive evidence to demonstrate that this would not be the case.

Conditions

25. I have considered the conditions suggested by the Council against the six tests set out in paragraph 206 of the Framework. A condition relating to the relevant plan is necessary for the avoidance of doubt and in the interest of proper planning. Conditions controlling materials are necessary to protect local character.
26. The Council proposes planning conditions relating to the provision of a cycle storage and waste storage and removal. Both of these conditions refer to "occupation of any of the new units" and thus do not relate to the planning application the subject of this appeal.

Conclusion

27. For the reasons given above, the appeal succeeds.

N McGurk

INSPECTOR

**Schedule of Conditions attached to
Appeal Decision APP/X5210/W/14/3000701
85 Jamestown Road, London, NW1 7DB**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan; 112-P Rev A; 113-P Rev A; 114-P Rev A; 206-P Rev A; 207-P Rev A; 208-P Rev A; 209-P Rev A; 210-P Rev A, 211-P Rev A. 302-P Rev A.

 - 3) The materials to be used in the external surfaces of the building shall match those used in the existing building, unless otherwise specified in the approved plans.

 - 4) Samples of materials to be used on the external surfaces of the development shall be submitted to and approved in writing by the local planning authority before the relevant part of the work is begun. The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.
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PHOTOSHEET ONE

85 Jamestown Road NW1 7DE



Photo 1 – Photo taken on Oval Road looking eastwards towards the appeal site on the corner of Jamestown Road and Oval Road



Photo 2 – Photo taken on Oval Road looking westwards towards the appeal site on the corner of Jamestown Road and Oval Road.