

Planning, Heritage and Design & Access Statement

Amalgamation of two residential units and external alterations

24 Priory Road, Kilburn

November 2020

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1. Introduction

- 1.1. This Planning Statement supports the application for full planning permission on behalf of Alex & Charlie Balcombe for the proposed development at 24 Priory Road, London. There are two elements to the proposed works. The first consists of the amalgamation of two separate flats, on the upper ground (Flat 1) and lower ground (Garden Flat) floors of the building, into a single residential unit. The second involves external works to the rear of the building. This comprises of the demolition of the existing conservatory and part of the rear wall to facilitate the extension by 1m depth of the lower ground floor flat; the creation of enlarged fenestration openings on the lower and upper ground floor rear elevations; and a walkway above the 1m extension with steps to connect the living space at the upper ground floor to the garden, all with a glazed balustrade and metal handrail.
- 1.2. Number 24 has a notably brief planning history. Originally built as a single house, planning permission was granted for its conversion into 4 self-contained flats in 1981¹. Since then, the only works undertaken have been the removal or pruning of trees, and the erection of the lower ground conservatory extension in 2003/04².
- 1.3. The building is located within the Priory Road Conservation Area. Like the majority of the houses at this end of the street, number 24 is an unlisted building which is deemed as making a “positive contribution”³ to the conservation area. The building is not included on the Council’s Local List of non-designated heritage assets.
- 1.4. Section 2 of this Planning Statement outlines the decision making framework for this application. Assessment of the proposal against the relevant development policies is split across Sections 3 and 4, where the former deals with the amalgamation of the two existing flats, and the latter reviews the external works to be undertaken. The Assessment is concluded at Section 5.

¹ Planning reference 31367

² Planning reference PWX0302220 related to a conservatory, but it appears that the conservatory was built not in accordance with this permission, and a retrospective planning application (2004/0029/P) was refused. Enforcement action ensued in 2004, which was complied with via relevant physical changes.

³ Priory Road Conservation Area appraisal and management strategy, 2000, p15

2. Decision Making Framework

- 2.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for development must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Development Plan

- 2.2. The development plans is comprised of:
- The Camden Local Plan (July 2017);
 - The London Plan (Consolidated with alterations since 2011) (March 2016);
- 2.3. The statute also confirms that *“if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document”*⁴.

Material Considerations

- 2.4. The NPPF (adopted July 2018, amended February 2019) and National Planning Practice Guidance (NPPG) are important material considerations in decision-making.
- 2.5. The NPPF states that “decision-takers may also give weight to relevant policies in emerging plans according to...the stage of preparation...the extent to which there are unresolved objections...and the degree of consistency of the relevant policies in this Framework” (paragraph 48).
- 2.6. The draft London Plan was published for consultation on 1 December 2017, and the Minor Suggested Changes (following consultation) on 13 August 2018. The Examination in Public took place between January and May 2019. The Panel of Inspectors appointed by the Secretary of State issued their report and recommendation to the Mayor on 8 October 2019, and on 9 December 2019 the Mayor issued his final ‘Intend to Publish’ version of the London Plan together with a schedule of his responses to the Panel’s recommendations.

On 13 March 2020 the Secretary of State exercised his powers to direct changes to the Draft London Plan. In particular, issue was taken with the Mayor’s Office’s past record of delivering homes, and the proposed housing policies in the new plan. Future housing targets were deemed too low, and the provision and protection of family housing was highlighted as inadequate.

⁴ S38(5) Planning and Compulsory Purchase Act 2004.

2.7. Given these unprecedented ongoing discussions, a level of nuance must be used when giving weight to the new plan. Where Central Government did not raise explicit objections, meaningful weight can now be placed on the Draft London Plan, as the adoption process is almost complete. However, where government has raised objections to certain policy areas, such as housing (regarding the plan's small sites policy, inadequate provision of family housing in the unit mix, and lack of density optimisation); industrial land; and aviation; less weight can be attributed.

2.8. Further Material Considerations include:

- Priory Road Conservation Area appraisal and management strategy (2000)
- Camden Planning Guidance: Design (2019)
- Camden Planning Guidance: Home Improvements (Draft 2020)

2.9. The Priory Road Conservation Area strategy is the main strategic document laying out the borough's priorities for this area, and the justification for its conservation. While the document is relatively old compared to other strategic documents, the conservation 'appraisal and management' strategies for the borough are regularly referred to in the Local Plan. This suggests that, particularly with regards to assessing and maintaining the character of the area, this strategy retains significant weight as a material consideration. However, more contextualised parts of the document, such as the identification of 'current' trends and issues within planning applications in the area, are likely to be less relevant today.

2.10. The Draft Home Improvements CPG is a "totally redrafted"⁵ version of the previous CPG, 'Altering and Extending your Home', which was also in draft form in 2018. It is not yet adopted, and in any event is not a DPD, and hence cannot be given the same weight as the Local Plan, but nevertheless forms an important material consideration indicating the Council's 'direction of travel' in terms of home improvements.

Heritage Framework

2.11. The site forms part of the Priory Road Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that "*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*".

⁵ Camden Council 2020

3. Unit Amalgamation

Establishing the legal context for works that constitute ‘Development’

- 3.1. ‘Development’, as defined in Section 55 of the 1990 Act, is only considered to have occurred if the work undertaken results in a *“material change in the use of [the] building[s]”*. Section 55(2) of the same Act further clarifies that *“the carrying out for the maintenance, improvement or other alteration of any building of works which affect only the interior of the building”* is not classed as development.
- 3.2. In this respect, the amalgamation of Flat 1 (UG Floor) and the Garden Flat (LG Floor) does not constitute development. Number 24 will remain in wholly residential use, and the amalgamation would require internal building works only.
- 3.3. Holgate J in RBKC v SoSCLG and Reis/Tong [2016] EWHC 1785 provides confirmation that this statutory principle applies in the context of the amalgamation of dwellings, where:
- There would be no change in the “character” of the use of the land (point 2 in the Holgate Judgment); and
 - The loss of a residential unit(s) would not have significant wider planning consequences for the area (point 4 in the Holgate Judgment).
- 3.4. This position is confirmed by Policy H3 in the Camden Local Plan, which highlights that *“within a block of flats or apartments, such a change [an amalgamation of units] may not constitute development”*⁶. In light of the above, it is clear that the amalgamation element of the proposed works does not constitute development.
- 3.5. However, alongside the amalgamation of units within the building, this application also encompasses proposed works that are classed as ‘development’ in the legal sense: namely the demolition of the existing conservatory, creation of a small rear extension, fenestration changes, and construction of a walkway and stairs on the rear façade. Given the dual nature of this proposal, full planning permission covering the entire project is sought, as the most procedurally straightforward and expedient way of establishing a lawful position for these works. With this in mind, the rest of this section will show that the proposed amalgamation of units complies with the relevant Local, Regional and National planning policies. Nonetheless, these arguments are offered without prejudice to the position that the proposed works do not constitute ‘Development’ in its specific legal definition.

⁶ Paragraph 3.75

Assessing the proposal against relevant development policies

- 3.6. Part B of Policy 3.14 in The London Plan states that *“Loss of housing, including affordable housing, should be resisted unless the housing is replaced at existing or higher densities with at least equivalent floorspace”*. While this is supported in essence by the Camden Local Plan Policy H3, ‘Protecting Existing Homes’, there is a conflict with Part C of the same, which mandates *“resisting development that would involve the net loss of **two or more homes** (from individual or cumulative proposals)”* (emphasis added). That is, while the London Plan calls for all development resulting in a net loss of residential units to be resisted, Camden’s Local Plan takes a more nuanced approach, and allows the loss of a single home per building. Given the reasoning set out in Section 2 of this report, the Camden Local Plan policy overrides the equivalent London Plan policy, as it was adopted most recently. Policy H3 therefore underpins this application.
- 3.7. Policy H3, as described above, resists development that would cause the loss of two or more homes. This proposal will result in the net loss of one unit, and therefore meets the Local Plan requirements for Camden.
- 3.8. The supporting text to Policy H3 offers further clarification as to what constitutes an acceptable loss of residential units through development. Paragraph 3.75 states that *“Net loss of one home is acceptable when two dwellings are being combined into a single dwelling”*. Further, the amalgamation of two residential units is cited as particularly important in that it can *“help families to deal with overcrowding, to grow without moving home”*.
- 3.9. The owners of Flat 1 and the Garden Flat are a family with three small children. They currently reside in The Garden Flat, which is a three bedroom unit. The oldest child, who is now 7, has his own bedroom, while the younger two (4 years old) share a bedroom. The family is in real need of extra space to accommodate their living requirements as their children grow older, allowing each child to have their own bedroom. Further, as working practices continue to change and working from home is becoming more commonplace, an increase in living space is fundamental to the long-term work/life balance of the household. This development is therefore extremely important to the family, as it ensures they will be able to stay in the area, as opposed to having to move further out of London.
- 3.10. The Local Plan’s support of unit amalgamation is caveated in Policy H3, in that *“the Council will resist the incremental loss of homes through subsequent applications to combine further homes within the same building or site”*. Planning history for this site shows that there have been no previous attempts to amalgamate units within the building. Further, the applicant has no intentions to purchase further units within number 24. The remaining flats in the building are all owner occupied. The proposal therefore falls well within the scope of this policy.
- 3.11. This section has assessed the proposed development against two key parts of Policy H3 (paragraph 3.75). First, that the loss of a unit through amalgamation is acceptable when it enables families to grow,

and secondly, that the amalgamation of two units is acceptable when it is the first development of its kind within a building. In both these cases, this proposal meets policy requirements and is regarded as suitable development.

4. External Alterations

- 4.1. The proposed external development work relates exclusively to the rear of the property. It consists of the demolition of the existing conservatory; the creation of larger fenestration openings on the lower ground and upper ground floors; and the construction of a 1m deep extension topped by an exterior walkway, with stairs leading from the living space at upper ground floor level to the garden.
- 4.2. The property falls within the Priory Road Conservation Area, which is characterised by a “*cohesive architectural quality ... [that] stands as a distinct example and reminder of the Italianate fashion of the mid-19th century*”⁷. Its Appraisal and Management Strategy (2000) emphasises that, from a conservation perspective, the priorities for this site centre around maintaining the public-facing unity and exterior quality of the buildings, particularly with regards to the original details on the front of the houses.

Heritage Framework

- 4.3. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that “*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*”. As noted above, the works would take place at the rear of the building and would not be visible from the public realm. Given that the conservation value of this area is found in the streetscape, as viewed from the front of the property, the proposal would not have any material effect on the ‘character or appearance’ of the Priory Road Conservation Area.
- 4.4. However, if for any reason the Council takes the view that works to the rear of a building have the potential to affect the conservation area, the following justification is offered. In this case, and without prejudice to the position in paragraph 4.3, this statement will show that the development will result in an overall positive (or at the very least, neutral) change to the building with regards to its effect to heritage and conservation.
- 4.5. The *Bohm* Judgment⁸ sets out the correct process for applying this S72 desirability – that only the ‘net’ effect of the overall proposal should be assessed. It highlights that S72 is a relative test, that is, it should base judgement on whether the proposed works will provide a contribution to the character of the area that is equal to or better than the existing development.

Potential effects on the Conservation Area

- 4.6. Regarding Heritage, Policy D2(e) of the Camden Local Plan states that the Council will “*require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area*”.

⁷ Priory Road Conservation Area appraisal and management strategy, 2000

⁸ Dorothy Bohm v SoSLG [2017] EWHC 3217

Rear extension and walkway with stairs:

- 4.7. This application proposes to demolish the existing conservatory and part of the rear wall in order to accommodate a small rear extension at the lower ground floor of 1m depth, topped by an exterior walkway and steps from the upper ground floor to the garden.
- 4.8. The only previous development on the site has been the erection of a rear conservatory in 2003/04⁹. This suggests that development to the rear of the property is, in principle, supported by the Council. In accordance with Camden's latest CPG, the draft 'Home Improvements' (2020) document, the proposed extension will be "*subordinate to the building*", "*carefully scaled in terms of height, width and depth*", and "*allow for the retention of a reasonably sized garden*"¹⁰. The proposed single floor height and one metre depth will not result in a sense of enclosure to the neighbouring property, and will provide a shorter and more sympathetic rear projection than the current conservatory, which is 3 metres deep and fully glazed. In this respect, the proposal constitutes an enhancement of the conservation area.
- 4.9. The attached floorplans show sleeping quarters on the LG floor of the site, with the main living areas such as the kitchen and dining room on the UG floor. This reconfiguration takes maximum advantage of the higher ceilings on the UG floor, which are more beneficial for living spaces. Further, it is preferable for the entrance to the property, on the UG floor, to open into the living quarters. As a further enhancement of this configuration, the proposed walkway would provide a direct link to the garden from the living areas, pivotal to the improvement of access and circulation through the property.
- 4.10. The Draft Home Improvements CPG notes that balconies are "*generally supported at the rear of properties, rather than front and side, given their impact on streetscene and wider area*". Whilst the rear walkway is not designed as a balcony, this suggests that the spirit of Camden's guidance would not oppose its construction. While the walkway will allow views across the neighbouring garden, it is not considered that this will result in overlooking, as the walkway is designed (1m depth) for access rather than social use. Further, there is an existing roof terrace on the first floor of number 24, which suggests that outdoor areas on the rear of the building are acceptable to neighbour amenity.

Enlarged fenestration openings:

- 4.11. The application proposes the enlargement of the fenestration openings and the insertion of bifold doors on the upper and lower ground floors.
- 4.12. The CPGs do not explicitly state the Council's position on the enlargement of windows. However, the original conservatory permission allowed for the widening of the 'opening' in the rear of the building, which would have removed one of the existing windows. While this permission was not implemented in this way, there is nonetheless a precedent set for the enlargement of the existing fenestrations in the LG floor.

⁹ Planning reference PWX0302220 related to a conservatory, but it appears that the conservatory was built not in accordance with this permission, and a retrospective planning application (2004/0029/P) was refused. Enforcement action ensued in 2004, which was complied with via relevant physical changes.

¹⁰ Page 40

Removing the conservatory and replacing it with larger windows maintains the benefits of natural daylight in the property, but also allows the rear elevation of number 22 to be restored to something nearer its original form. In this respect, the proposal would not cause harm to the conservation area, and by virtue of creating a sensitive modernisation of the rear façade, would enhance it.

- 4.13. The overall suitability of these works should be assessed against the overall benefit of the existing building to the Priory Road Conservation Area. The modest scale of the proposed extension is not only sensitive to the overall appearance of the building, but also to the amenity of neighbouring properties, while the enlarged fenestration openings will improve the quality of daylight to the property. In addition, the proposed walkway will perform a vital function in terms of changing the site from two separate flats to a cohesive family home. In this respect, and with regards to the Bohm judgement, it is apparent that the net benefit from this proposal outweighs the loss of the current conservatory and rear façade.

5. Conclusion

- 5.1. This Planning Statement supports the proposal to carry out internal works to amalgamate two flats (Flat 1 and the Garden Flat) into a single residential unit, and external works comprising the demolition of a rear conservatory attached to the Garden Flat, changes to the fenestrations on the rear elevation, the extension of the lower ground floor by 1m, and the installation of a corresponding upper ground floor walkway with stairs to the garden.
- 5.2. The first part of this application concerns the amalgamation of the two existing flats into one unit. Without prejudice to the position that this doesn't constitute 'Development' under the Act, it has been demonstrated that the proposed works would comply not only with the technical requirements of Policy H3 of the Local Plan, but that they will also create a home that will enable a family to stay in the area in the long term. In this respect, it falls squarely within the bounds of the spirit in which this policy was created.
- 5.3. The second part of this application deals with the external works to the rear of the property. It is shown that these works do not impact the historic value of the Priory Road streetscape. If the Council was minded to assess the rear of the property as having an effect on the Conservation Area, then the works are shown to constitute enhancement (or at the very least preservation) of the character of the conservation area. The creation of rear extensions, walkways and larger fenestration openings is supported in spirit by the Council, as evidenced by the previous planning history of the site and the guidance from the local supplementary policy documents.
- 5.4. Overall, in light of the above findings, the proposal would be in accordance with the development plan, the relevant heritage statutory test, and no material considerations indicate otherwise. Consequently planning permission should be granted.

