

FLAT 3 – 15 NEW END

London NW3 1JD

PLANNING APPEAL

Local Planning Authority Ref No: 2020/3115/P

Planning Inspectorate Appeal Reference: TBC

APPELLANT'S STATEMENT OF CASE:

PART I – STATEMENT OF CASE

(PART II – APPENDICES)

Eleni Makri BArch MArch RIBA AABC IHBC

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1.0 COMMENTS ON THE COUNCIL'S REASON FOR REFUSAL

Reasons for Refusal

1.1 The application has been refused for the following reason:

'The proposed roof extension and alterations by reason of their siting, massing, scale and design would be visually prominent and incongruous additions which fail to relate to the form and architectural composition of the host building and adjoining terrace. The proposal would be detrimental to the character and appearance of the host building, the adjoining terrace, and the wider Hampstead Conservation Area, contrary to Policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017, and Policies DH1 (Design) and DH2 (Conservation areas and listed buildings) of the Hampstead Neighbourhood Plan 2018.'

1.2 The Decision Notice and the Delegated Officer Report have been submitted with this appeal.

The appeal proposals; site and context (Hampstead CA)

1.3 The following are proposed:

- (a) The restoration of the missing chimney stack at the end elevation of no. 15 New End facing onto the side alleyway leading to Elm Row;
- (b) A mansard roof extension (with eaves) commencing behind the restored chimney stack and beyond the existing front roof ridge and hip of no. 15 New End (both of which remain unaffected) with the roof extension rising to the shared ridge height of the existing mansard roofs (with eaves) at nos. 17-21 (odd) New End and terminating against the existing raised party wall between nos. 15 and 17; a dormer on the proposed roof extension onto the side alleyway replicating the existing roof extensions and dormers at nos. 17-21; two skylights on the mansard flat roof.

1.4 The appeal site is located in the Hampstead Conservation Area (CA) of the London Borough of Camden, most relevant: nos. 1-25 (odd) are identified in *The Hampstead Conservation Area Statement (Camden 2001) Audit* as being positive contributors to the CA character and / or appearance; they are located in the *New End / New End Square area of sub-area 4 / Christ Walk / Well Walk* of the CA whose designation dates back to 1968 with New End and nos. 1-15 (odd) being identified in p.20 as follows, *'In the 19th century the enclave of New End became the site of working class cottages and municipal buildings and that character is still strongly evident alongside a few earlier properties ... Down from Heath Street is a terrace of simple two storey and three storey properties that have no front gardens (Nos. 1-15), most of the them have been painted ... Two alleyways ... The one to Elm Row has a terrace of two/three storey houses that sit directly on the alleyway with no pavement one of many spaces that emphasise the feeling of a hill town ...'* (Pl. also refer to the appellant's Design, Heritage and Access Statement, which also contains a site plan in Appendix 1 and a photographic documentation of the site and its context, in Appendix 8).

Grounds of appeal

1.5 The appellant will demonstrate that the proposals are:

- (a) Complimentary to the character and / or appearance of the conservation area in this location and will contribute to its enhancement;
- (b) Consistent with the requirements of the policies listed in the Council's reasons for refusal;
- (c) Consistent with other relevant policies and guidance published by the Council and guidance published by Historic England and in the NPPF both of which underpin Council policies and guidance.

2.0 COMMENTS ON THE DELEGATED OFFICER REPORT

Consultations (pp 1-3)

- 2.1 The appellant has already produced a detailed, illustrated response to the comments received by the Council following internal and external public consultations, which formed part of the appellant's submissions during the course of the assessment of the planning application. Submitted under the title *Addendum*, these comments are an amplification of the comments in the appellant's Heritage, Design and Access Statement. The comments in the *Addendum* are further amplified in the following.

Planning History (p 4)

- 2.2 The case officer refers to the recent planning history of nos. 15 New End and in particular the most recent scheme which was withdrawn, extracts of which are provided here in **Appendix IIXa**; the appellant has also taken this opportunity to provide extracts from Camden's web records on the addition of the mansard roof and dormer at no. 17 New End in 1973, which are in **Appendix IIXb**, as they confirm the original relationship between nos. 15 and 17 New End.

Site description / Relevant Policies / Assessment (pp 4-6)

- **The contribution of no. 15**

- 2.3 Contrary to the statement in the Officer Report (pl. refer to site description and elsewhere throughout the Report), no. 15 is not identified as a positive contributor on its own, instead it forms part of the contributor group nos. 1-25 (23-35 being the PH and 1-21 the 3 residential terraces, 1-7, 9-15 and 17-21), pl. refer to paragraph 1.4 above. This is significant as the proposed should be then assessed on its effect on nos. 1-21 (and not on no. 15), which is the position adopted by the appellant in the formulation of the appeal proposals.
- 2.4 In any case, were we to consider the contribution of no. 15 on the CA character we would find it severely compromised: at roofscape level through the loss of the original slate coverings to concrete tiles and of the end chimney stack above eaves level, which would have dominated the location/ defined the character of the location when walking uphill; overall, and irreversibly so, through the loss of the original large and therefore prominent corner shopfront which would have again once dominated and indeed defined the streetscene when walking uphill with its cut – away corner entrance which was canopied over by the residential floors above. The extent and adverse impact of this irreversible loss, its replacement in an arbitrary manner with the proliferation of reinforced concrete bressumers and lintels and the subsequent painting of the original brickwork of the facades so as to reduce the visual effect of these alterations, can only be appreciated by comparison to historic examples which survive intact as the ones identified in **Appendices I** (location) and **II** (images) two of which, nos. 17 Flask Walk and 49 Gayton Rd, are located in the same sub-area of the CA as the appeal site. (Notably and in addition, nos. 26-28 New End retain their original shopfronts despite having been converted to residential use throughout, and so their contribution to the streetscene remains untarnished – no image is provided).
- 2.5 Historic England's published guidance *Conservation Area Appraisal, Designation and Management Advice Note 1* is relevant as it provides specific advice (paragraph 49, pp 20-21) on the assessment and identification of positive contributors: in p 20, the green shaded text which is the pre-ambule to the checklist in p 21 concludes as follows (the underlining is the appellant's) pl. refer to extracts in **Appendix V**:
- ' ... A positive response to one or more of the following may indicate that a particular element within a

conservation area makes a positive contribution, provided that its historic form and value have not been eroded.

Also, that:

'But be aware that conservation area designation is likely to carry more weight in decision making than local listing in the case of unlisted buildings in conservation areas.'

- 2.6 Reviewing no. 15 in this context and in particularly the loss and subsequent arbitrary elevational changes on both facades following the removal of the original shopfront, how can we possibly state that its historic form and value have not been eroded? Not only the erosion of the historic form and value of no. 15 is clearly evident, it is also clear that it does not stop there but extends to the whole of the group nos. 1- 21: at roofscape level, this can be seen in the lost pitched roofs of nos. 1-7 and the resulting absurd exposure of the end gable end of no. 9, the lost chimneys stacks of nos. 9, 11 and 15, the abrupt towering over no. 15 of its raised party wall with no. 17 and its chimney stack, which now dominates the roofscape when walking uphill; at ground floor level, irreversibly so, with the loss of the original shopfronts and their arbitrary replacements not two of which are the same. Again, the extent of historic character and value erosion can only be fully appreciated when compared with similar examples which are preserved intact – as is for example nos. 11-17 Flask Walk – pl. refer to image 3, in **Appendix II** (for location pl. refer to **Appendix I**); overall, the painted brickwork conceals original colour brick banding surviving only at no. 13 New End, thus adding to the compromise of the streetscene character (pl. see further in *Addendum, Images 2*).
- 2.7 So what is then the positive contribution (if any) which nos. 1-21 make to the character and / or appearance of the CA? It is all explained in the Council's CA Appraisal document (pl. refer to earlier paragraph 1.4): they represent the scale of 19th century working class cottages against the scale of municipal buildings of the period (a contrast in scale which remains evident today as well as at the timing of the publication of the Appraisal document in 2001), alongside earlier properties.
- 2.8 In conclusion, no. 15 New End forms part of nos. 1-21 New End which is a group identified in the CA Appraisal as a positive contributor; the group's original appearance and configuration are however severely and irreversibly compromised and therefore the group's positive contribution to the CA character and /or appearance in this location is (if any) only by its scale.
- 2.9 There is a further impediment which was only recently imposed on the local character of the CA / roofscape level of the setting of the group nos. 1-21 and is fully appreciated when walking downhill from Heath Street; it has resulted from the roof design of the recently approved replacement building at no. 29 New End. The images in **Appendix IV** show the situation before and after the replacement – the new balconies in replacement of the previous tiled hipped roof are an absurd and harmful introduction to the otherwise traditional roofscape in this location and compromising to the local designated character which is now demonstrably in need of repair. (Note: the appellant is aware that no.29 was granted approval on appeal but having read the relevant documentation, it is the appellant's understanding that the issue of the effect on the setting of the group 1-21 New End and on the historic CA townscape in this location escaped being noticed by all participating parties).

Assessment – 3.Design and Heritage (pp 5-7)

- **Policy D2 (Appendix VI) and the NPPF**

- 2.10 In paragraph 3.1, Policy D2 (Heritage) is misquoted by omitting the word **designated** in the penultimate sentence, which should read instead as follows:

*‘The Council will not permit development that results in harm that is less than substantial to the significance of the **designated** heritage asset unless the public benefits of the proposal significantly outweigh that harm.’*

This policy is underpinned by NPPF (2019) – Conserving and Enhancing the Historic Environment (p. 54), clause 196 – pl. see below:

196. 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.

- 2.11 It should also be noted that in both, Camden’s Policy D2 and the NPPF there is a very clear distinction between Designated and Non – Designated assets: Policy D2 clarifies that *‘Designated Heritage Assets are Listed Buildings and Conservation Areas’*. So, in this instance, the designated asset is the Conservation Area, the non-designated heritage asset is the group nos. 1-21 (1-25) identified in the CA Appraisal Audit as a positive contributor to the CA character and / or appearance.

- 2.12 Regarding non – designated heritage assets, Policy D2 provides that:

‘The effect of a proposal on the significance of a non-designated heritage asset will be weighed against the public benefits of the proposal, balancing the scale of any harm or loss and the significance of the heritage asset.’

This is underpinned by NPPF – clause 197 – pl. see below:

197. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- 2.13 Finally, NPPF 190 requires that:

190. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.

This clause clearly demonstrates that the damage to the setting of the roofscape of nos. 1-21 resulting from the roof of the replacement at no. 29 is a relevant consideration and that the Local Planning Authority should be aware of this and should acknowledge the limited contribution of the group to the CA character and that this is a group rather than individual building contribution.

- 2.14 In conclusion, Council policy D2 and underpinning guidance in the NPPF require that: the proposals should be assessed on their effect on the CA (designated asset) and determine what should happen if less than substantial harm is caused – NPPF clause 196; the effect of the proposals on the contributory group 1-21 (identified non-designated asset) should be taken into consideration – NPPF clause 197; the effect of proposals on the setting of heritage assets (in this instance on the setting of group 1-21) is also a matter of consideration – NPPF clause 190.

- **CPG – Home Improvements (Jan 2021)**

2.15 Paragraph 3.2 refers to CPG – Altering and extending your home (2019). The appellant is now advised by the Council that this CPG has been replaced by CPG – Home Improvements (Jan 2021). The relevant extracts on Roofs and Dormers are in **Appendix VII**. Critically, the document advises as follows (the underlining is the appellant's):

'The previous guidance presented a hard line approach of restricting development at roof level on any unbroken roofline. Under this guidance, a more flexible approach is proposed, to give more weight to existing older extensions and to those allowed under permitted development, in the immediate context of the building being proposed for extension, within and outside Conservation Areas.

This guidance would suggest that the existing roof extension at no. 17 (nos. 17-21) should now be taken into account and be given weight in the assessment of the appeal proposals.

Further, the guidance advises:

'For buildings in Conservation Areas, the Conservation Area Appraisals identify if certain terraces or groups of buildings are significant due to their unbroken roofline, which means they hold heritage value. '

The group under consideration here in nos. 1- 25 (1-21 being the residential terrace properties): it does not have an unbroken roofline and more to the point it has not been identified in the CA Appraisal as being significant due to an unbroken roofline. In any case the design of the appeal proposals is such that the consistency of the roofs of sub-group nos. 9-15 along the front would remain unchanged for now and in the future. The proposals do not interfere with the front slope and hip and they would not create a precedent for more roof extensions in the group nos. 9-15 as they leave the roof of the adjoining property at no. 11 and the party wall parapet completely unaffected.

The guidance also advises that:

A successful roof extension would consider the overall roof form of the existing building, adjoining buildings and impact in key views (when relevant) and be proportionate to the roof slope being extended.

The appellant has demonstrated that the proposed design has derived from the geometry of the host building, the surviving chimney stacks and roof configuration of its own terrace nos. 9-15 and the existing roof extensions and dormers of its adjoining buildings nos. 17-21; thus the underline principle of the appeal proposals is to seek to remedy damage to the designated streetscape resulting from past alterations in the group nos. 1-21 and in its setting resulting from the recent replacement of the neighbouring no. 29.

2.16 In conclusion, the proposals are consistent with Camden's new guidance on roof extensions and dormers in CPG – Home Improvements (Jan 2021).

- **Officer appraisal of proposals (paragraphs 3.5 – 3.8)**

2.17 The officer's appraisal of the appeal proposals is in paragraphs 3.5 – 3.8. Starting in reverse:

In paragraph 3.8 the officer comments adversely on the proposed restoration of the truncated chimney stack at the end elevation of no. 15 onto the side alleyway. The appellant has explained in detail the geometry engaged in the proposed restoration in the appellant's response to the representations the local authority received from interested people during the application stage and submitted more detail as to the proposed approach and the rev-01 elevations as existing and as proposed (pl. refer to *Addendum*). Further, end chimney stacks are often taken down because they become unstable as a result of their

greater height as they rise from the eaves to well above the ridge height (in mid terrace properties they simply rise above the parapets / ridges). Proposed width and height here are determined by the width and height of the surviving stacks at nos. 9 and 11. Similar high, end elevation stacks survive in several locations in this sub-area of the Conservation Area, the nearest one is at no. 8 Elm Row (at the top of the side alleyway) and another one at the end elevation of no. 17 Flask Walk – pl. refer to **Appendix I** for locations and for images in **Appendix III**.

In paragraph 3.7 the officer notes that *the proposed roof extension would be particularly prominent in long views and that the elongated chimney would only partly conceal the roof extension*. Again, the appellant has explained at length the benefits to the conservation area character of the appeal proposals and the extent of their visibility from street level:

The proposed mansard roof and dormer will mainly be visible from uphill, will continue the tradition of the existing mansard roofs at nos. 17-21 and will remove the unsightly prominence of the end wall between nos. 15 and 17 while restoring the prominence of the end chimney stack of no. 15;

The proposed mansard roof will leave the consistent roofscape of nos. 9-15 as viewed from downhill (Heath Street) completely intact as it rises behind the existing ridge – any visibility behind the ridge should be welcome as it would potentially conceal the uncharacteristic roofscape of modern balconies of the replacement building at no. 29 New End which replaced a hipped roof (pl. refer to images in **Appendix V**); only the restored end chimney will be visible walking downhill from Heath street and this should again be welcome.

In conclusion, there is no demonstrable harm, only benefit.

In paragraph 3.6 the officer states that, *the existing roof is integral to the character of the building and that the proposed changes would unbalance the composition of the building and the dormer would increase the bulk and scale of the roof of this corner cottage, which is part of a consistent terrace*.

In response, the appellant wishes to make further references to the new guidance in CPG – Home Improvements (Jan 2021), p. 49 advising that, *‘Extending properties with a new storey at roof level is a well-established method to increase the useable space of properties.’*; also p.50 advising that *‘There are certain considerations that should be taken into account when designing an additional roof level, to ensure it is sensitively and appropriately designed for its context.*

A new roof level should:

- *Be subordinate to the host building;*
- *Include features informed by the host building and surrounding context;*
- *Take the form of a traditional mansard, a modern interpretation or a more innovative approach ...*

The appellant has demonstrated that the appeal proposals are designed with all of the above considerations in mind and the CPG advice is clear, that allowing a roof extension here would be consistent with a well-recognised practice for adding space to a property. Further, the proposed roof configuration (called *‘bi-slope combination roof’* in the officer description of development and in the officer Report) is consistent with the *more innovative approach* allowed by the guidance and many precedents of similarly ‘innovative’ examples in the CA such as at no. 8 Elm Row and elsewhere – pl. refer to the images in **Appendix III** and to *Addendum, Images 1 and Images 3*.

Finally,

In paragraph 3.5 the officer criticises the proposed roof extension and concludes that *'The result of the proposals is that the side profile of the extension disregards the stepped pattern of houses lining the walk from New End to Elm Terrace'*. This statement is unsubstantiated: the officer refers to the alleyway and the properties nos. 17-21 which adjoin no. 15 and whose later mansard roofs in situ evidence demonstrates terminate at the same ridge / flat roof level - which however is not appreciated from street level – pl. refer to *Addendum, images 2*. The stepped pattern impression, that the officer refers to, is maintained by the stepped eaves levels only and this will remain unchanged. Further, the original relationship between nos. 15 and 17 prior to the roof extension at no. 17 is seen in the extracts in **Appendix IIXb**, and in particular in the drawings of the *East Elevation of the Extension* and of the *Front Elevation as Existing*; this original relationship will be restored if the appeal proposals were allowed.

The officer conclusion that *'Therefore the additional storey would interrupt the established and largely consistent roof line of the existing terrace facing New End'* probably refers to the elevation along the front and is again clearly unsubstantiated as explained under 2.15 (... the design of the appeal proposals is such that the consistency of the roofs of sub-group nos. 9-15 along the front would remain unchanged for now and in the future. The proposals do not interfere with the front slope and hip and they would not create a precedent for more roof extensions in the group nos. 9-15 as they leave the roof of the adjoining property at no. 11 and the party wall parapet completely unaffected.)

Other

- **Materials**

- 2.18 The appellant wishes to confirm the use of natural slates in the proposed new mansard roof throughout including the refurbishment of the retained elements of the existing roof which are currently covered in concrete tiles; the fenestration of the new dormer will be in timber. The appellant will accept conditions to that effect.

3.0 CONCLUSIONS

3.1 The following have been demonstrated:

3.1.1 The design of the appeal proposals is informed by an exhaustive analysis of the context and setting of the Conservation Area (CA) in this location, which allowed the development of an in depth understanding of the contributory, its limitations and any scope for improvement / repair.

3.1.2 The underlining design principle has been to repair the roofscape of nos.1-21 and its setting (the latter to the extent possible), by reinstating the lost chimney stack at no. 15 and re-introducing the original relationship between nos. 15 and 17, while maintaining the front slope and hip of nos. 9-15 unaffected for now and in the future, as there is no precedent created.

3.1.3 The proposals are consistent with the Council's published policies and guidance and their underpinning guidance published by Historic England and in the NPPF.

3.2 As such the proposals will enhance the CA character and / or appearance in this location which is consistent with s. 72 of the Listed Buildings and Conservation Areas Act 1990, as amended by the Enterprise and Regulatory Reform Act 2013.

3.3 For the reasons explained above the Inspector is therefore respectfully requested to allow this appeal.