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Planning Statement

To accompany an application for a

Proposed:

“Erection of single storey ground floor rear extension; part first floor extension; erection of Type 3 roof extension; and front porch”.

At

**162 Gladesmore Road,
London, N15 6TH**

By

**Shulem Posen
Eade Planning Ltd**

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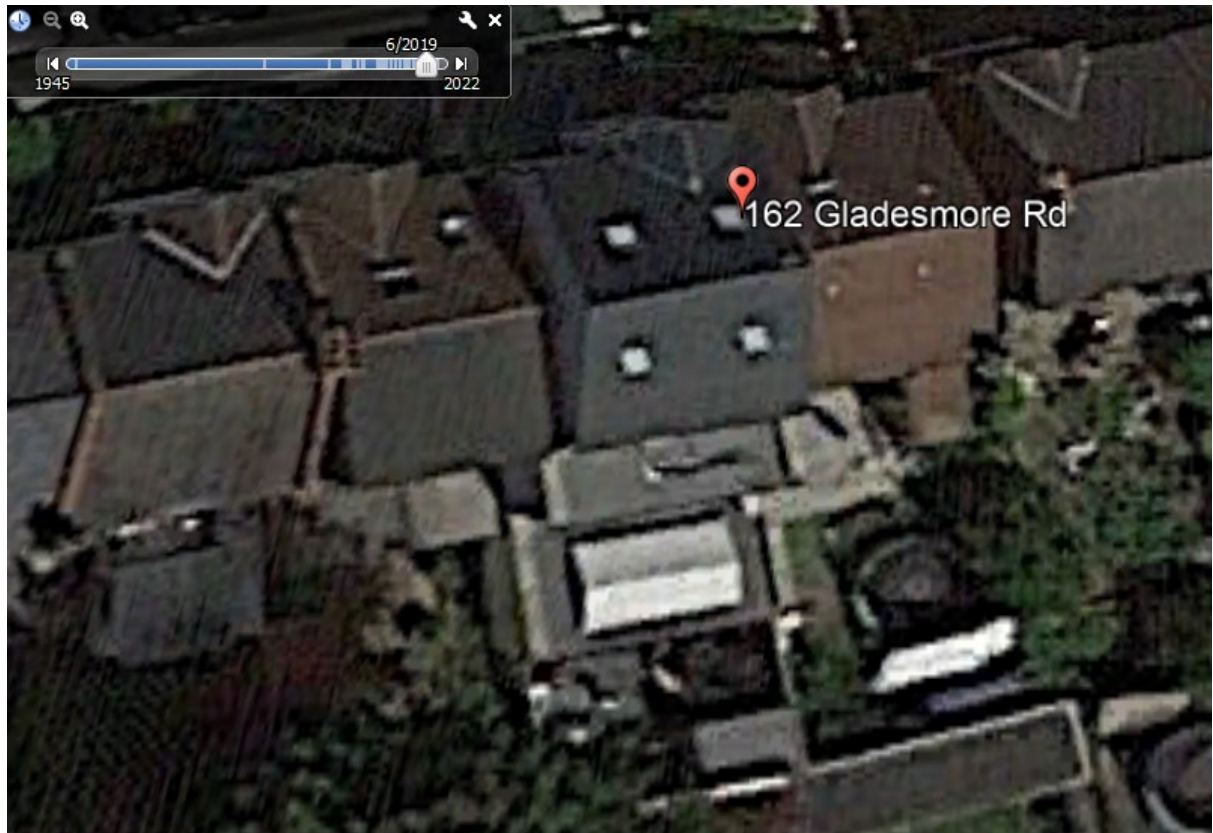
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Introduction and the Proposal

1. The property sits at 162 Gladesmore Road, London, N15 6TH.
2. The site is not located a Conservation Area and is therefore, not in Article 2(3) land with respect to the GPDO, nor is it a Statutory Listed Building.
3. This application follows various planning permissions and lawful development certificates (LDC) granted in respect of this property. these are as follows.
 - HGY/2017/1950 – Type 3 roof extension.
 - HGY/2021/3136 – Prior Approval for ground floor rear extension - Extent.
 - HGY/2022/1029 – First Floor extension - Extent.
 - HGY/2023/1064 – LDC for a front porch.
4. This application seeks to combine the above elements into one singular application. this provides clarity when instructing builders and engineers so that they can understand the full extent of the works. It also avoids having to construct the development piecemeal and make further applications mid-works.
5. For example, the developer may clearly build out the Type 3 extension, the ground floor prior approval extension, and the front porch. Once these are all built, the developer can than reapply for the first-floor extension with the same dimensions as approved. The first-floor extension will sit above the ground floor extension.
6. Given that the first-floor extension was found to be acceptable above the existing ground floor extension, there is no way it can be found unacceptable above the prior approval ground floor extension. On the contrary, the first-floor extension will be more acceptable above a deeper ground floor extension.
7. In any event, the proposal is acceptable in planning terms.
8. The proposal is also similar to that allowed on appeal at No.1 Lockmead Avenue.

9. It is also important to note the planning permissions granted in respect of No.160 Gladesmore Road, and the lawful developments at No.160. See google aerial view below showing the extent of NO.160 in 2019.



The Proposal Description

10. The proposal description given is “Erection of single storey ground floor rear extension; part first floor extension; erection of Type 3 roof extension; and front porch”.

Material Consideration and the Fall-Back

11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states, *"if regards is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise"*.
12. Section 70 of The Town and Country Planning Act 1990 - Determination of applications: general considerations - was amended by the Localism Act 2011 to state as follows,
- (2) *In dealing with such an application the authority shall have regard to—*
- (a) *the provisions of the development plan, so far as material to the application,*

- (b)any local finance considerations, so far as material to the application,
and
(c)any other material considerations.

Relevant Case Law

13. In *Mansell (Mansell v Tonbridge and Malling BC)* Planning permission was granted for the demolition of a barn and the construction of four detached dwellinghouses. The permission was clearly in conflict with the development plan, however, the council relied on the fallback position given that Class Q of the GPDO allowed for the change of use of the barn to use as a dwellinghouse.
14. A challenge was brought against the LPA by a member of the public claiming that the LPA should not have relied on the fallback position. The claimant argued that the LPA had no right to rely on PD rights as a fallback position where there was no evidence that the developer would report to such development. There would have to be a 'real prospect' of such a development being carried out. There must be "a finding of actually intended use as opposed to a mere legal or theoretical entitlement" the claimant argued.
15. The Court of Appeal disagreed and held that for there to be a real prospect, it does not have to be probable or likely, 'a possibility will suffice'. How much will be needed to clarify that possibility may be a planning judgement, however, in that case, it was plainly appropriate, indeed necessary, for the LPA to have taken into account the PD rights available. "Not to have done so would have been a failure to have regard to a material consideration, and thus an error of law". At para 27(3) the court included where the developer had said precisely that he would make use of the PD rights.
16. The Court of Appeal endorsed Sullivan L.J's passage in *Samuel Smith Old Brewery v SOS* (2009), "*For a prospect to be a real prospect, it does not have to be probable or likely; a possibility will suffice*". The court of appeal also held that a scheme that would need a planning application made but which would probably be granted also falls to be considered as a fallback where there is a real prospect of that happening. The court of appeal further held, that where it is clear that the applicant intends to achieve the maximum of his land, it is not necessary for the applicant to have had made the necessary applications, or to have provided clear indications as to what exactly he would do should the subject planning application be refused.
17. Turning to this case, it is beyond doubt that if planning permission is not granted for this proposal, the LDC scheme, the prior approval, and the planning scheme will be built out in full. Therefore, the consideration in this case is whether planning permission should be granted for the development was the application to be made after the above schemes would be implemented. The applicant submits that planning permission would be granted.

18. There is no doubt that it is well worthwhile for the developer to build out the above schemes in their entirety and to then re-apply for planning permission for the additional first floor elevation. The developer would then have the enjoyment of the large extension for many years to come. The developer has indeed gone through the troubles of submitting the previous applications.
19. The whole purpose of this planning application is in order to save going through the process of building the structure in stages, by first building some schemes and then re-applying for the first-floor extension. For the fallback position to be of effect, it would suffice to establish what could, and would be built pursuant to the GPDO. There is no need to erect even a part of it.

Conclusion

20. The proposed works will not have any detrimental effect on the area, and in any event, having regard to the fallback position, the proposal should be granted. The LPA are therefore, respectfully asked to grant planning permission for the proposal.