

Delegated Report		Analysis sheet	Expiry Date:	28/12/2022
		N/A / attached	Consultation Expiry Date:	18/12/2022
Officer		Application Number(s)		
Matthew Dempsey		2022/4009/P		
Application Address		Drawing Numbers		
Flat 1 3 Akenside Road London NW3 5BS		Please refer to Decision Notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Variation of condition 3 (approved drawings) of planning permission reference 2017/4652/P dated 10/11/2017 (for Erection of single storey rear extension to ground floor flat with roof terrace enclosed by balustrades above for use by first floor flat; installation of 1 new ground floor side window), namely to allow extension to rear roof terrace and associated relocation of railings, installation of privacy screen and installation of 5 access doors (part-retrospective)				
Recommendation(s):		Refuse and Warning of Enforcement Action to be Taken		
Application Type:		Variation or Removal of Condition(s)		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	03	No. of objections	03
Summary of consultation responses:	<p>A site notice was displayed from 18/11/2022 which expired 12/12/2022. A press notice was published 24/11/2022 which expired 18/12/2022.</p> <p><u>2 objections</u> were received from local residents (2 and 4 Akenside Road). Their concerns raised can be summarised as follows:</p> <ul style="list-style-type: none"> • Works carried out without permission. • Impact on amenity- privacy and overlooking. • Loss of sash windows to rear. • Concerns regarding accuracy of the plans provided. <p><u>Councillor Simon</u> (Belsize Ward) objected on the following grounds:</p> <p>“Balconies can sometimes allow invasion of the privacy of neighbouring homes. The permission originally granted for this application was on a basis that limited this impact to an acceptable level. How the balcony was actually built was clearly not in accordance with that permission and the result is a level of invasion of privacy that is not acceptable. This is not an abstract point, but one demonstrated by photographic evidence since the balcony was constructed.</p> <p>Therefore, this application to vary the permission to allow the balcony as it has been built should be refused and enforcement action taken.</p>					
CAAC	The Fitzjohn's Netherhall Conservation Area Advisory Committee were consulted on the proposals and no response was received.					

Site Description

The host site is a three storey (including roof space) semi-detached residential dwelling with pitched roof and gabled frontage located on the east side of Akenside Road. The property is split into three flats. This application relates to the first floor flat.

The property is not listed, however it is located within the Fitzjohn's/ Netherhall Conservation Area.

Relevant History

2014/1925/P - Erection of single storey rear extension. **Granted 02/06/2014.**

2014/5395/PRE - Joint rear extension at both no. 2 and no. 3 Akenside Road. **Advice issued 13/10/2015.**

2015/1207/P - Erection of a single storey rear extensions. **Granted 22/06/2016.**

2017/4652/P - Erection of single storey rear extension to ground floor flat with roof terrace enclosed by balustrades above for use by first floor flat; installation of 1 new ground floor side window. **Granted 10/11/2017.**

2017/4653/P - Erection of single storey rear outbuilding in rear garden for use ancillary to ground floor flat. **Granted 07/11/2017.**

2017/5873/P - Amalgamation of 2 x 2 bed flats to form 1 x 4 bed duplex; installation of 1 x side facing window and 1 x rooflight. **Granted 21/12/2017.**

2019/0255/NEW - Amendment of the full planning permission 2017/4652/P for erection of a single storey rear extension to the Ground floor flat with a roof terrace above for the First floor flat to include the following: - Amalgamation of the Ground and First floor flats into a single dwelling; - Reinstatement of the window on the side elevation; - Provision of a new entrance from the side for private access to the second floor flat. **Withdrawn 07/02/2019.**

2019/0323/P - Conversion of 2 x 3-bed flats to form 1 x 4-bed maisonette at ground and first floor levels; erection of single storey rear extension with roof terrace enclosed by balustrades; installation of 2 x new side windows at ground and first floor levels and 1 x new side door to form separate access to Flat 3; erection of new front bin store. **Withdrawn 14/02/2020.**

2020/1907/INVALID - Minor amendment for insertion of rear bifold door to approved planning application. **Withdrawn 04/12/2020.**

Relevant policies

National Planning Policy Framework 2021

London Plan 2021

Camden Local Plan (2017)

A1 Managing the impact of development

D1 Design

D2 Heritage

Camden Planning Guidance

Amenity CPG 2021

Design CPG 2021

Fitzjohn's Netherhall Conservation Area Character Appraisal and Management Plan (2022)

Assessment

1.0 Proposal:

1.1 Planning permission is sought to vary the approved plans of the application reference 2017/4652/P, granted 10/11/2017.

1.2 The variations to the approved scheme would include;

- Extension of the rear roof terrace and railings to the north and east sides of the terrace
- Installation of new doors at first floor level onto proposed extended terrace area.
- Installation of privacy screen to south side of the terrace.

1.3 It is apparent that at least some of the works applied for here have been carried out. Therefore the application would be for a partially retrospective permission.

1.4 For the avoidance of doubt, works carried out without consent include-

- Extension to the roof terrace, both in depth and in width.
- Installation of railings surrounding extended terrace.
- Installation of privacy screen to south side

2.0 Assessment:

2.1 The principal planning considerations are considered to be the following:

- Design and Heritage
- Neighbouring amenity

3.0 Design and Heritage:

3.1 The Council's design policies are aimed at achieving the highest standard of design in all developments. The following considerations within policy D1 are relevant to the application: development should consider the character, setting, context and the form and scale of neighbouring buildings, and the quality of materials to be used. Policy D2 states that within conservation areas, the Council will only grant permission for development that preserves or enhances its established character and appearance.

3.2 The design of the extended terrace has been shown to match the detailing of the approved scheme, with approved black metal railings, but is now extended out both ways to the side party wall with No.2 Akenside Road and also to the rear extension's rear parapet edge facing the rear garden. It is noted that the approved scheme ref 2017/4652/P specifically had a separation distance of 1.7m between the edge of the terrace and the closest upper floor window at No.2, and that this gap was critical to the assessment of the scheme which concluded that it was acceptable in amenity terms (see 'Reasons for granting permission' informative on planning permission). See also Amenity section below. However in design terms alone, the relocated railings are considered acceptable in themselves. The proposed (as built) terrace now occupies the full width and depth of the flat roof, right up to the

boundary with No.2. The approved terrace was 29sqm in area, the as-built terrace is approximately 33.17sqm.

- 3.3 Five new doorways would be created to enable access to the terrace area. These doors would provide access to the master bedroom (2 doors), the dressing room (1 door) and the en-suite bathroom (2 doors). The new timber framed doors would be installed within extended existing window openings and would be designed to match the existing fenestration in place at first floor rear with corresponding glazing patterns. It is noted that the approved scheme was revised to retain existing first floor rear windows with only one door opening. The creation of additional access doors from an ensuite bathroom and dressing room appear to be both excessive and unnecessary. Nevertheless the alteration of a further four existing windows to doors is considered inappropriate in design terms as the traditional sash windows that match the adjoining 1st floor facade would be replaced by a series of doors. This proposed alteration would harm the appearance of the host building's rear facade, its relationship with the conjoined neighbour and the overall character of the wider conservation area.
- 3.4 The proposed privacy screen would be installed towards the edge of the approved terrace to the south side. This would be constructed with a 2m high timber trellis fence. The trellis screen would be lightweight in nature; however the overall height of this element is considered overly dominant and would appear as an incongruous addition at this high level. It would also appear to be unnecessary as the terrace would only look onto a blank flank wall with non-habitable staircase window here- see also Amenity section below. This screen would harm the appearance of the host building and the character of the wider conservation area.
- 3.5 Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

4.0 Amenity:

- 4.1 Policy A1 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. The relevant factors to be considered in this case are the effects on light, privacy and outlook.
- 4.2 The proposed extended terrace would now enable users of this space direct and close views into the adjoining 1st floor bedroom window of the neighbouring property No.2 Akenside Road with unacceptable impacts on privacy of that property.
- 4.3 The proposed new bathroom door would provide additional access to the extended terrace, but would also enable access to the flat roof with or without extension of the railings. This would enable users of the space direct view into the adjoining habitable room of the neighbouring property No.2 Akenside Road.
- 4.4 In addition to the above, although considered less harmful, there would also be additional opportunities for users of the extended terrace to overlook the rear neighbouring garden of No.2, and likewise for No.2 to overlook the extended terrace. The approved terrace was set back from the edge to reduce the potential for overlooking and this variation would remove that protection. Nevertheless the harm caused is not serious enough to warrant a reason for refusal.
- 4.5 The proposed privacy screen to the south side of the terrace would obscure views to and from the neighbouring flank window at No.4. It was noted in the approved decision that this window serves a stairwell and it was not considered necessary to screen this view at the time.

5.0 Conclusion:

- 5.1 The variations to the approved scheme, in terms of the new access doors and privacy screen, are considered to have an unacceptable impact on the character and appearance of the host building and conservation area.
- 5.2 The proposed extension to the terrace and railings are considered to have an unacceptable impact on neighbouring amenity.
- 5.3 The separation gap between the approved roof terrace and the neighbouring flat's window was a significant factor in the decision to approve the terrace in its setback form and this is considered a minimum which should be adhered to in order to protect amenity.
- 5.4 It is noted the applicant has provided drawings showing an approved scheme and an as-built scheme. However as highlighted within objections from local residents, the approved floor plan provided by the applicant is not accurate. For the avoidance of doubt, the approved scheme ref 2017/4652/P includes an approved drawing ('Proposed_Floor_Plans' drawing No: 3.200.102 Rev P2) showing the approved terrace as having a floor area of 29 sqm set in from the neighbouring boundary. For the avoidance of doubt, approved drawings are highlighted on the decision notice.

6.0 Recommendation:

6.1 Refuse planning permission for the following reasons-

1. The enlarged roof terrace with perimeter railings, by reason of its proximity to neighbouring windows, would result in direct overlooking of the adjoining first floor rear windows of No.2 Akenside Road to the detriment of the amenity of neighbouring residential occupiers, contrary to policy A1 (Managing the impact of development) of the London Borough of Camden Local Plan 2017.
2. The replacement of first floor rear windows by access doors, by reason of their design and location, would have a harmful impact on the character and appearance of the host building and surrounding conservation area, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.
3. The privacy screen, by reason of its design and location, would have a harmful impact on the character and appearance of the host building and surrounding conservation area, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.

6.2 Issue an enforcement notice-

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town and Country Planning act 1990 as amended regarding the unauthorised works and that officers be authorised in the event of non-compliance to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.

The notice shall allege the following breaches of planning control:

Installation of relocated perimeter railings and new side privacy screen in association with extended 1st floor rear roof terrace.

WHAT ARE YOU REQUIRED TO DO?

1. Either completely remove perimeter railings and door that enable the rear first floor flat roof to be used as a roof terrace or implement approved roof terrace with railings and door in accordance with planning permission reference 2017/4652/P dated 10/11/2017 (for Erection of

single storey rear extension to ground floor flat with roof terrace enclosed by balustrades above for use by first floor flat).

2. Remove side privacy screen.

PERIOD OF COMPLIANCE: 3 months

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

1. The perimeter railings of the enlarged roof terrace, by reason of its proximity to neighbouring windows, result in direct overlooking of the adjoining first floor rear windows of No.2 Akenside Road to the detriment of the amenity of neighbouring residential occupiers, contrary to policy A1 (Managing the impact of development) of the London Borough of Camden Local Plan 2017.
2. The privacy screen, by reason of its design and location, has a harmful impact on the character and appearance of the host building and surrounding conservation area, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.