

Flat C 34 Goldhurst Terrace, London, NR6 3HU
Application Reference 2023/0980/P

Response to Representation by LRJ Planning

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1 Introduction

An application was submitted in March 2023 for the creation of a small 3sqm balcony to Flat C at Goldhurst Terrace in Camden (application reference 2023/0980/P). The proposal will provide valuable external amenity space for Flat C. The Applicant intends to put a very small table and two chairs on the balcony if approved.

In the course of the statutory consultation exercise, a lengthy representation was received by LRJ Planning on behalf of the residents of the neighbouring Flat D. This representation claimed that the proposal would lead to the following:

- Severe harm on the level of residential amenity enjoyed by Flat D, through an unacceptable increase in noise and disturbance, loss of privacy, increased light spill and the risk and fear of crime;
- Significant harm to the character and appearance of the property and surrounding Conservation Area;
- An undesirable precedent
- A breach of the Party Wall Act; and
- An adverse impact on the Green Triangle SNIC.

This document clarifies the claims made within the representation against the proposal by LRJ Planning and shows that the purported issues are without merit and as such the development should be approved.

2 Amenity

2.1 Noise

The representation from LRJ planning claims that the proposed balcony is “large” and “*will encourage a significantly level of activity within an external environment until the early hours of the morning. The size of the terrace means that it can accommodate a significant number of people*”.

The proposed balcony would provide a very small outdoor footprint of only 3sqm – by no means could it be considered large or able to accommodate a significant number of people. For example, appropriate personal space whether seated or standing is considered to be 1sqm. Another 1sqm of open space would need to be retained for access and egress, as well as the planned table. Therefore, the balcony would only provide enough space to comfortably accommodate two people, which certainly cannot be considered to be a significant number. The noise generated by two people sitting or standing on the balcony cannot reasonably be considered to be non-compliant with the NPPF, which only states that LPAs should avoid noise giving rise to significant adverse impacts on health and quality of life.

The balcony is to be sited off of Flat C’s master bedroom – a very private space within the flat that will likely only be used by the owners rather than its guests. It should not be assumed that a maximum of two people enjoying the balcony would automatically lead to

excessive noise or nuisance. Even if that were to be the case, the residents of Flat D would have recourse to ensure that noise levels remain within legislated limits at all times.

Two people sitting on a balcony (likely only to be used during good weather) can hardly be said to pose a significant noise impact on neighbouring occupiers.

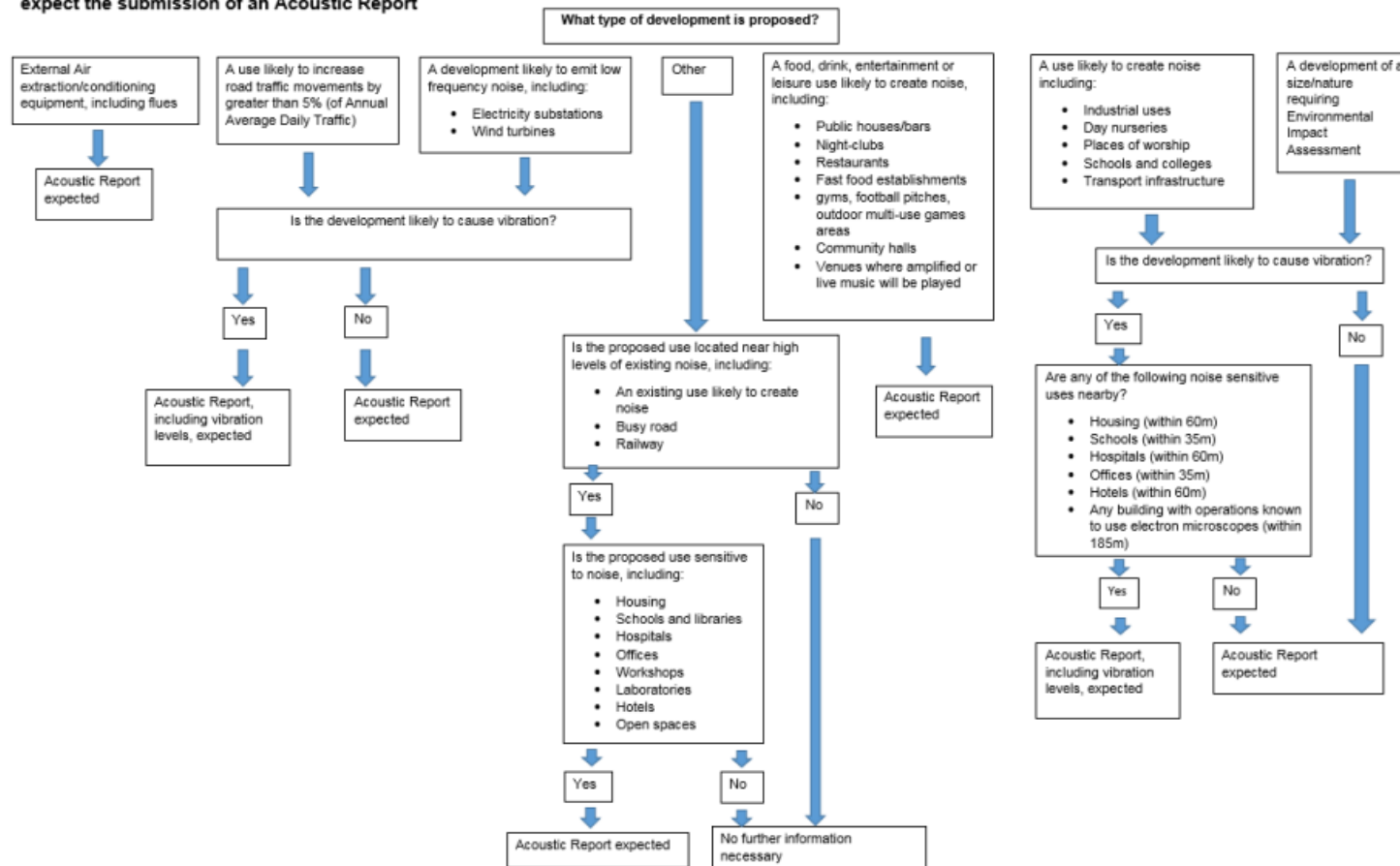
The LRJ Planning representation indicates that a noise assessment should be undertaken in support of the application. The Camden Amenity SPD identifies clearly when a noise assessment is expected to accompany planning applications:

“When a planning application is submitted, an acoustic report should accompany the application where any of the following are proposed:

- *plant, ventilation, air extraction or conditioning equipment and flues;*
- *uses likely to create significant noise such as food/drink/entertainment and leisure uses, industrial uses, day nurseries, places of worship, schools and colleges;*
- *a noise-sensitive use located in noisy environment (e.g. near to a busy road, railway line, noisy industry)*
 - *noise sensitive uses include housing, schools/libraries, hospitals, offices, workshops, laboratories, hotels and open spaces.*
 - *a noisy environment is considered to be an area where nonstandard adaptations have to be made to a development in order to prevent harmful or otherwise unwanted effects, such as annoyance or sleep disturbance.*
- *uses likely to generate a significant amount of traffic (defined as road traffic movements greater than 5% of Annual Average Daily Traffic); and*
- *developments emitting low frequency noise (e.g. electricity substation).*

The SPD includes a very helpful diagram to show exactly when a noise assessment should be submitted with a planning application. This is reproduced overleaf. It should be noted that the proposed balcony does not fall under any of the categories in the diagram where a noise assessment would be needed. This is likely due to the fact that the Council will have considered in advance, during the preparation of the SPD, that small-scale minor developments such as a two-person balcony, would not be likely to generate any significant noise impacts.

Diagram 1: Flow chart showing when the Council will expect the submission of an Acoustic Report



2.2 Overlooking and Privacy

Camden Council specifically discusses balconies and overlooking within the adopted *Amenity Supplementary Planning Document*. It states that:

“new buildings, extensions, roof terraces, balconies and the location of new windows should be carefully designed to avoid overlooking. The extent of overlooking will be assessed on a case-by-case basis.

The places most sensitive to overlooking are typically habitable rooms and gardens at the rear of residential buildings. For the purposes of this guidance, habitable rooms are considered to be residential living rooms; bedrooms and kitchens. The area of garden nearest to the window of a habitable room is most sensitive to overlooking...

To ensure privacy, it is good practice to provide a minimum distance of 18m between the windows of habitable rooms in existing properties directly facing the proposed (either residential or non-residential) development, assuming a level topography...

Although balconies and roof terraces can provide amenity space for flats that would otherwise have little or no exterior space, they also have the potential to increase opportunities for overlooking. Balconies and roof terraces should therefore be carefully sited and designed to reduce potential overlooking of habitable rooms or gardens of neighbouring residential buildings. Conversely, residential buildings should also be designed so that new balconies and roof terraces do not suffer from an unacceptable degree of overlooking from existing developments, particularly when this is the only outdoor amenity space available to the new dwelling.”

The proposed balcony will not face the windows of Flat D – it is intended for people to look out, away from the building. As a result, it is not possible for the new balcony to overlook the window in Flat D some 3.5m above, as it is on the same plane as Flat D’s windows. The diagonal bathroom window to Flat D is set at head height within the room and benefits from a privacy curtain. The photograph on Page 2 of the representation does not appear to be to scale and shows a person 2.2m (7+ feet) tall.

Furthermore, the proposal will not increase overlooking to other neighbouring properties to the side or rear, as the standoff distance is significantly in excess of the minimum 18m requirement, the nearest neighbouring façade to the rear being some 36m distant - double the recommended minimum. Within this 36m standoff distance the garden to 34 Goldhurst Terrace and the buildings to the rear of Greencroft Gardens are interspersed with mature trees and vegetation, therefore further limiting any potential for overlooking.

2.3 Light

The *Amenity Supplementary Planning Document* identifies the following as potential issues at new development:

“Excessive or poorly designed lighting can cause light spillage and glare and be damaging to the environment by:

- having a detrimental impact on the quality of life of neighbouring residents;*
- changing the character of the locality;*
- altering wildlife and ecological patterns; and*
- wasting energy.*

The following can cause an artificial light nuisance if they are not maintained or used properly

- security lights (domestic and commercial);*
- sports facilities (like floodlit football pitches);*
- decorative lighting of buildings or landscapes; and*
- laser shows and light art.”*

The scheme under consideration does not propose any exterior lighting. Therefore, the proposal will not have any impact on light spill to Flat D or any other residence within the vicinity.

2.4 Security

In terms of security, someone would have to first scale the balcony supports 6.4m to the bottom of the balcony, climb over the railings and then scale the flat brick wall another 3.5m to reach the window of Flat D. A perpetrator would more easily gain access to Flat A (ground floor) or Flat B (first floor) via its balcony – there would be little merit in a random burglar continuing to climb higher and higher given the risk of a fall and the lack of climbing infrastructure available to reach the top floor when there are several significantly more manageable targets along the way.

A crime being committed against Flat D as a result of the development proposal is therefore extremely unlikely and does not warrant further discussion.

3 Conservation Area

The Application Site lies within the South Hampstead Conservation Area. The *Character Appraisal and Management Strategy* (February 2011) identifies No. 34 as a positive contributor to the Conservation Area, although the building is not listed. The special interest of the Conservation Area is described as:

“a well preserved example of a leafy Victorian suburb, almost exclusively residential in nature, and largely homogenous in scale and character. The area is characterised by large, semi-detached and terraced late-Victorian properties, in red or gault (white / cream) brick, with a particularly distinctive and attractive roofscape including turrets, gables, and tall chimneys. Houses are made special by a variety of decorative treatments including terracotta panels and brickwork ornamentation, tiled and patterned footpaths, delicate ironwork, and elaborate timber doors and windows, including some original stained and leaded glass.

One of the most prominent features of the area is vegetation – both to the front and rear of properties. Green front gardens demarcated by low or ornate garden walls topped with hedges contribute strongly to the area’s character. Building lines of the residential streets are generally set-back from the pavement which, with the boundary landscape treatment and many mature specimen trees, are essential in giving the streetscape its attractive and serene quality.”

The balcony proposal will not affect the special interest of the area as it will not jeopardise the appearance or character of the area as a leafy Victorian suburb. Specifically, it will not affect any vegetation or boundary treatments.

The Conservation Area Appraisal further elaborates that:

“The spatial character of South Hampstead is derived from the interplay of wide streets lined with mature trees and large and rhythmically spaced brick buildings... The character of South Hampstead Conservation Area relies significantly on the attractive, wide variety of prominent roof forms.”

The proposal will not affect the street scene in any way, nor the roof form of 34 Goldhurst Terrace. The appraisal specifies that negative elements include “unsympathetic and prominent features that detract from a building such as inappropriate additions (e.g. excessively large dormer windows) or uPVC windows” none of which are proposed in the application under consideration.

The representation from LBJ Planning states that the proposal would appear as “*incongruous elements to the character and appearance of the property*” and yet Flat B below already presents a nearly identical balcony, which as an existing feature is part of the character and appearance of the property.

Furthermore, the proposal will not be visible from within the street scene of the Conservation Area, as it lies on the rear elevation of the building. It will not be visible to the buildings to the rear due to the intervening mature trees and vegetation. It therefore will not have an effect on the character or appearance of the Conservation Area.

4 Precedent

The concept of a planning application setting a precedent is not recognised in UK planning law. Instead, decisions are to be made on a case-by-case basis. Therefore, the perception that the proposal would lead to establishing a set precedent for allowing balconies in the borough is unwarranted.

However, there is an expectation that planning decisions will be made with consistency. To that end, it is worth noting that there are a number of other balconies in the area which have obtained planning approval in recent years. A simple search on the Council's website shows 818 planning applications for new or improved balconies in the Borough were approved and only 71 were refused. 623 of those approved were in a Conservation Area and 37 were in the South Hampstead Conservation Area.

Of those applied for within the South Hampstead Conservation Area, only 1 was refused (2014/3922/P) and in that case it was refused due to the scale of the dormer that was also proposed, i.e. it was not refused due to the proposed balcony.

The above data makes it very clear from the sheer number of approvals that Camden Council fully recognises the significant benefits that balconies can play in increasing external amenity space for residents. It also signifies that balconies can be considered to be appropriate and not adversely affect the character and appearance of a Conservation Area.

Therefore, it is very clear that, in principle, balconies are considered an acceptable form of development within the Borough and within its Conservation Areas.

5 Party Wall Act

The proposal is not believed to impact or touch upon the party wall between Flats C and D. Only the part of the wall that does the separating is "party"; sections above where the proposed development lies are not believed to be "party".

The development may affect the party wall between Flat B and Flat C. However, the Applicant had discussed the proposal with the owners of Flat B in advance of the application being submitted and come to an agreement, the result being the owner of Flat B supports the proposal and has submitted a representation to that effect.

6 Green Triangle SINC

The Camden Planning Guidance on biodiversity describes the Green Triangle SINC site as:

“an attractive community garden surrounded by housing. A good number of trees form a high canopy, these include an impressive multi-trunked sessile oak (Quercus petraea), sycamore (Acer pseudoplatanus), ash (Fraxinus excelsior), yew (Taxus baccata), silver birch (Betula pendula), rowan (Sorbus aucuparia) and field maple (Acer campestre). The understorey supports a variety of native and exotic shrubs and young trees, including elder (Sambucus nigra), hazel (Corylus avellana), guelder rose (Viburnum lantana), Portugal laurel (Prunus lusitanica), Oregon grape (Mahonia aquifolium) and magnolia (Magnolia sp.). The herb layer contains a variety of species providing an attraction for invertebrates. In the more shaded areas ground ivy (Glechoma hederacea), wood avens (Geum urbanum), wood dock (Rumex sanguineus) and ground elder (Aegopodium podagraria) are abundant. In less shaded spots species include dusky crane’s-bill (Geranium phaeum), lemon balm (Melissa officinalis), Canadian goldenrod (Solidago canadensis) and the London notable species hemp-agrimony (Eupatorium cannabinum). Dead wood around the site provides valuable invertebrate habitat.”

The Green Triangle’s status is Grade II – a lower level site of Borough-wide importance.

The Camden Local Plan includes Policy A3 on biodiversity:

The Council will protect and enhance sites of nature conservation and biodiversity. We will:

- a. designate and protect nature conservation sites and safeguard protected and priority habitats and species;
- b. grant permission for development unless it would directly or indirectly result in the loss or harm to a designated nature conservation site or adversely affect the status or population of priority habitats and species;
- c. seek the protection of other features with nature conservation value, including gardens, wherever possible; Camden Local Plan | Protecting amenity 201
- d. assess developments against their ability to realise benefits for biodiversity through the layout, design and materials used in the built structure and landscaping elements of a proposed development, proportionate to the scale of development proposed;
- e. secure improvements to green corridors, particularly where a development scheme is adjacent to an existing corridor;
- f. seek to improve opportunities to experience nature, in particular where such opportunities are lacking;
- g. require the demolition and construction phase of development, including the movement of works vehicles, to be planned to avoid disturbance to habitats and species and ecologically sensitive areas, and the spread of invasive species;
- h. secure management plans, where appropriate, to ensure that nature conservation objectives are met; and
- i. work with The Royal Parks, The City of London Corporation, the London Wildlife Trust, friends of park groups and local nature conservation groups to protect and improve open spaces and nature conservation in Camden

It is important to reiterate that Policy A3 specifically states that the Council will:

“grant permission for development unless it would directly or indirectly result in the loss or harm to a designated nature conservation site or adversely affect the status or population of priority habitats and species”.

The Application Site lies approximately 25m northeast of the Green Triangle SINC. The SINC will not be visible from the balcony or vice versa due to the intervening mature trees and vegetation.

Regardless of distance, the application does not include any development that would directly or indirectly remove or affect any trees, habitats or species. The proposal will not lead to any emissions, dust, light or airborne pollutants that would disperse into the SINC or affect any habitats or species within it.

In no way will the balcony proposal directly or indirectly result in the loss or harm to the Green Triangle biodiversity site or any priority habitats or species. With certainty, it will not lead to a net loss in biodiversity as claimed in the LRJ Planning representation. As a result, in accordance with criteria B of Policy A3, the proposal should be granted planning permission.

7 Conclusion

As shown throughout this document, the application for the minor development of a 3sqm balcony to the rear of Flat C, 34 Goldhurst Terrace will not have any effects on the amenity of existing or future residents but will improve the amenity of the residents of Flat C by providing a private external amenity space.

The proposal is only large enough for a maximum of two people to enjoy, which will not lead to any significant noise, loss of privacy, light pollution or overlooking. It is extremely unlikely that it would lead to any increase in crime.

The proposal will not have any impact on biodiversity in general or the Green Triangle SINC or the character or appearance of the South Hampstead Conservation Area, as it will not be visible from the street scene and will not impact any of the features of special interest of the Conservation Area.

The proposal will not create a “precedent” for future development as no such concept is recognised in UK planning law. However, it is worth noting that decision-making in planning should be consistent. From past decision-making, it is clear that Camden Council considers balconies an acceptable form of development within the Borough and its Conservation Areas.

This document outlines in detail that the proposal complies with the relevant policies in the Camden Local Plan and Amenity Supplementary Planning Document, and will not affect the special features of interest outlined in the South Hampstead Conservation Area appraisal. The Applicant is therefore hopeful that his application is approved without further delay.