

Enforcement Delegated Report

Receipt date:

02/10/2023

Officer

Angela Ryan

Enforcement Case

EN23/0772

Breach Address

17A Nassington Road,
London
NW3 2TX

Photos & Other material

On file

Authorised Officer Signature



17/10/2023

Alleged Breach

Installation of razor wire on the flat roof of the single-storey rear extension.

Recommendation:

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended requiring removal of the unauthorised razor wire on the flat roof of the single-storey rear extension, and to pursue any legal action necessary to secure compliance and officers be authorised that in the event of non-compliance, to prosecute under section 179 or appropriate power

Site Description

The site comprises a 4-storey semi-detached building, including a dormer extension. The property is sub-divided into 3 flats. The property is located on the south side of Nassington Road where the predominant land use is for residential purposes.

The site is not listed but lies within the South Hill Park Conservation Area, where the building is identified as making a positive contribution to the character and appearance of the Conservation Area.

Investigation History

26/09/2023- An e-mail was sent to the Owner highlighting the breach regarding the razor wire that had been installed on the roof of the extension and requested that it be removed within 7 days from the date of the e-mail

27/09/2021- Owner replied to my e-mail acknowledging my e-mail sent on 26/09/2023 and confirmed that he was overseas tied up with work and would be home the following week and would reply more fully as a priority

04/20/2023- send a further e-mail to the Owner expressing mu disappointment that despite my e-mail sent on 26/09/23 requesting that the razor wire is removed, that more had been added. I again requested that it is removed within the next 7 days from the date of the e-mail.

12/10/2023- I received an e-mail from the Owner acknowledging receipt of my e-mail dated 04/20/2023 and an undertaking that they would provide a more detailed response later that day. To date, I have not received a response.

Relevant policies / GPDO Category

National Planning Policy Framework 2023- paragraph 59

London Plan 2021

Camden Local Plan (adopted June 2017)

Policies:

D1- Design

D2- Heritage

CS5- Safety and Security

Camden Planning Guidance

CPG1 Design (2021)

- Chapter 2 Design Excellent
- Chapter 3 Heritage
- Chapter 9 Designing Safer Environments

Home Improvements (2021)-paragraph 2.1.1 & 2.3.3

Assessment

Relevant Planning history

17A Nassington Road

12th August 2013 Planning permission **granted** for erection of a single storey rear extension to ground floor of existing flat (Ref. 2013/2358/P).

3rd May 2016 Planning permission **granted** for construction of a single storey rear extension with terrace (including screening) above and installation of windows to side of property at lower ground floor level, (Ref. 2016/1295/P).

This scheme has been implemented but the roof has not been laid out as a terrace; the razor wire has been installed on the flat roof where the terrace is permitted.

16th September 2016 Planning permission **granted** for enlargement of 2 windows and installation of new window opening on side elevation at lower ground floor level to Erection of a single storey rear extension with terrace and installation of windows on side elevation approved under planning permission 2016/1295/P dated 03/05/16 (Ref: 2016/4675/P)

17th June 2023- Planning application submitted for the removal Condition 4 and any and all references to a roof terrace - Variation of planning application (2016/1295/P) - Construction of a single storey rear extension with terrace (including screening) above and installation of windows to side of property at lower ground floor level. (Ref: 2023/2584/NEW).

17B Nassington Road

4th August 2021- Planning application submitted for details pursuant to condition 4 (screening) granted under planning permission reference 2016/1295/P dated 03/05/2016 for the erection of a single storey rear extension with terrace above and installation of windows to side of property at lower ground floor level. (Ref: 2021/3774/P). This application has not yet been determined.

27th September 2023 – Planning application submitted for two schemes:

- Option A: Erection of a terrace above the existing ground floor rear extension
- Option B: Erection of a metal balcony above the existing ground floor rear extension

This application was subsequently withdrawn. (Ref: 2021/4701/INVALID)

Relevant Enforcement History:

09/08/2018- a complaint was submitted in respect to razor wire being installed on the flat roof of the single-storey rear extension two coils were fixed in place, one along the inside of the parapet wall and one at the rear wall of the property where the main building meets the extension. The coils were fixed into the top of the parapet at either side of the extension and were being held down with stones and blocks. (Ref: EN18/0644):

On 02/11/2018 an enforcement notice was issued, which took effect on 14 December 2018. The notice required that within one month of the notice taking effect the Owner's should:

1. Completely remove all razor wire from the flat roof of the rear extension;
2. Make good any resulting damage following the completion of the above works.

The case was closed on 17/01/2019 as the notice was complied with.

11/06/2019- a complaint was received in respect to use of the extension roof as a terrace and storage area created. (Ref: EN19/0552). The case was closed on 14/06/2019 as no breach was found.

19/06/2019- a complaint was received of storage of junk, tables & chairs on the roof extension and new structure in the garden (Ref: EN19/0571). This case was close as no breach was found.

26/05/2021- a complaint was received in regards to use of the flat roof of the ground floor rear extension as a roof terrace in breach of condition (4) attached to planning permission ref: 2016/1295/P (Ref: EN21/0407). An application for the discharge of condition (4) has been submitted but is still under consideration.

02/10/2023- a complaint was received in regards to the installation of razor wire on the flat roof of the single-storey rear extension (Ref: EN23/0772). This case is subject to this formal enforcement action being taken.

Issues:

A single-storey rear extension was granted permission in 2016 and was constructed in late 2016 and early 2017.

In September 2023 two coils of razor wire was installed on the flat roof of the rear extension. The Owner was contacted requesting its removal. They responded by confirming that they were out of the Country present and would get back to me in due course. A week later, rather than seeing the two coils of razor wire removed, additional coils of razor wire had been installed on the flat roof of the rear extension thus intensifying the planning breach.

Assessment:

The site lies within a designated conservation area and is therefore considered to be a non-designated heritage asset.

Paragraph 199 of the NPPF 2023 stipulates that

“when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”. Paragraph 202 further goes on to say:

“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”.

The coils of razor wire are permanently fixed to the building and form a permanent alteration to the building therefore require planning permission. However, an application has not been made, and the works are unauthorised.

The works do not relate to any functional or design necessity at the site and are an unacceptable alteration to this period building:

- They fail to respect the residential nature of the property on which razor wire is installed and are not an acceptable alteration given its unsightly and hostile character;
- They fail to relate to the built form of the property and are considered to be a prominent and obtrusive alteration that fails to integrate with the building. They do not relate visually to any materials or finishes used on the exterior of the building and are considered to be incongruous and would set an unacceptable precedent.

As a result, the works fail to preserve or enhance the character and appearance of the host building which is identified as making a positive contribution to this part of the South Hill Park Conservation Area, and is thereby contrary to policies D1 and D2 of Camden’s local plan, which seek a high standard of design and development that preserves or enhances Camden’s rich heritage.

It appears that the works have been undertaken to stop occupiers of the upper floor flat (17B) from using the flat roof of the rear extension as a terrace/amenity space. However, the works are considered unacceptable in principle as they result in detracting from the character and appearance of the host building as well as this part of the conservation area.

The Council can see no public benefit in regards to the razor wire that has been installed on the flat roof, neither does it result in the securing the optimal viable use of the site as residential accommodation.

In assessing development the Council needs to take into account equality and foster good relationships between those with a protected characteristic and other parts of the community. The complainant has raised the issue in regards to them being of Jewish heritage and the razor wire resulting in creating trauma due to reminding them of the holocaust. The works that have been carried out give the impression of an embattled neighbourhood where properties require heavy fortification, and is therefore contributing to creating trauma and disabling the complainant from having use and enjoyment of their place of residence.

HUMAN RIGHTS ACT

Article 8 and Article 1 of the first protocol to the Convention on Human Rights state that a person is entitled to the right to respect for private and family life, and the peaceful enjoyment of his/her property. However these rights are qualified in that they must be set against the general interest and the protection of the rights and freedom of others. In this case service of the Notice to bring about an

improvement in the unsatisfactory appearance of the property is considered to be reasonable and proportionate.

Recommendation: that the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended to secure the complete removal of the unauthorised razor wire and to pursue any legal action necessary to secure compliance. Officers be authorised in the event of non-compliance to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

The notice shall allege the following breach of planning control:

Installation of razor wire on the flat roof of the single-storey rear extension.

WHAT ARE YOU REQUIRED TO DO:

1. Completely remove all razor wire from the flat roof of the single-storey rear extension;
2. Make good the site following the completion of the above works and removal all resultant debris from the site.

PERIOD OF COMPLIANCE: One month

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

1. The razor wire that has been installed on the flat roof of the rear extension fails to respect the residential nature of the property and, by its obtrusive and incongruous design, harms the character and appearance of the host building and this part of the South Hill Park Conservation Area. As such, the works are contrary to Policy D1 (Design) and Policy D2 (Heritage) of the Camden Local Plan 2017.