



Date: 30<sup>th</sup> January 2024  
Your Ref: APP/X5210/C/23/3334398 & 3334399  
Our Refs: EN23/0772  
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Dear Sir/Madam,

**17A Nassington Road, NW3**

**Enforcement Notice dated 23<sup>rd</sup> October 2023 (EN23/0772) regarding the installation of razor wire on the flat roof of the single-storey rear extension.**

**APPEALS BY: Mr Matthew Finn & Ms Andriana Finn (née Naidoo)**

The council refers to two appeals regarding the same enforcement notice.

The Council's case is largely set out in the Officer's delegated report, a copy of which was sent with the appeal questionnaire. In addition to the information sent with the questionnaire, I would be pleased if the Inspector could take into account the following comments before deciding the appeal.

**1.0 Summary:**

**Site Description:**

- 1.1** The appeals relate to a building identified as making a positive contribution to the South Hill Park Conservation Area.
- 1.2** The appeal building is a semi-detached house in Victorian Gothic Revival style. The property is located on the south side of Nassington Road. The Conservation Area statement states that the style of the houses along Nassington Road are typified by elaborately carved foliage in artificial stone as well as various combinations of steeply pitched roofs, Tudor chimneys and rustic porches. Sashes are more elaborately detailed with glazing bars sub-dividing the upper panes/and or stained glass decoration.
- 1.3** The predominant land use within the vicinity is for residential purposes.

- 1.4** The building is a 4-storey semi-detached building, including a dormer extension and recent single storey rear extension with terrace. It is subdivided into 3 self-contained flats. Flat A is at lower and upper ground floor levels, Flat B is at first floor level and Flat is C at second floor level. There is no access from the ground floor Flat A to the terrace upon the roof of the single storey extension.
- 1.5** Razor wire has recently been installed on the flat roof of the single storey extension belonging to Flat A. The appellants state that this was installed to prevent the occupiers from Flat B at first floor level using the roof as a terrace. The razor wire is unsightly and at odds with the residential use of the property, the appearance of the building and the South Hill Park Conservation Area in which it is located.

Since the notice was served, the appellants have added faux ivy to the wire. The appellants now state that the wire is to protect the green roof (in the form of faux ivy), located on the extension.

It is noted that wire on the roof had been installed previously too but was removed following a complaint received in 2019 and subsequent investigation by the council.

**Background:**

- 1.6** There are various planning decisions regarding the property. See history section below.
- 1.7** The existing extension was constructed pursuant to permission granted on 03.05.2016 for a single storey extension. See para 2.2 below. The proposal included a terrace on its roof. Condition 4 required approval of screening before occupation of the development. This condition has not been complied with to date.

It is noted that records shows that there is no access from the ground floor flat to the roof. It is anticipated that the proposed terrace could be for the use of the first floor Flat B. This is indicated by the planning history - see paragraphs 2.6, 2.8, 2.9 and 2.12 below where the Owner of flat B sought permission to authorise the terrace and provide an access door, albeit currently unauthorised.

- 1.8** The Appellants have confirmed that they no longer wish for the flat roof of the rear extension to be used as a terrace. The Council notes that use of the roof as a terrace would be optional providing the outstanding details of the screening would be acceptable in terms of providing privacy and conservation. Such details have not been submitted and without approval, the terrace would be unlawful.

## **2.0 Relevant planning and enforcement history in chronologically:**

**2.1** 12/08/2013- permission **granted** in respect to flat A, for a single storey rear extension to ground floor of existing flat (Ref: 2013/2358/P)

**2.2** On 03/05/2016 planning permission was granted for flat A, for a single-storey rear extension and a roof terrace at Flat A, (Ref: 2016/1295/P). Condition (4) attached to the relevant permission states:

*“Notwithstanding the approved drawings (in particular drawing nos WK-2460-26 (Rev A) and WK-2460-26 (Rev B)), details of the proposed screening shall be submitted to and approved in writing by the local planning authority prior to the occupation of the development. The work shall be carried out in accordance with such approved proposals and remain in perpetuity”. (See Appendix 1)*

**2.3** 16/09/2016- permission **granted** in respect to flat A, for a non-material amendment comprising enlargement of 2 windows and installation of new window opening on side elevation at lower ground floor level, 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). This resulted in condition (3) being amended, however the condition attached to the substantive permission under reference 2016/1295/P remained applicable.

**2.4** 11/06/2019 & 19/06/2019- 2 x complaints were received in respect to the Occupiers of Flat A, using the rear extension as a terrace and storage area, and for a new structure installed in the garden (Refs: EN19/0552 & EN19/0571). These cases were formally closed as no planning breaches were found.

**2.5** 09/08/2019- a complaint was received in respect to flat A relating to the installation of razor wire on the flat roof of the rear extension (Ref: EN18/0644). The case was formally closed following the removal of the razor wire.

**2.6** 26/05/2021- a complaint was received in respect to the Owners of Flat A, 17 Nassington Road using 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). This case is still active, as the Appellants ceased using the flat roof of the rear extension as a terrace and it was hoped that issues between the neighbours would be mutually resolved and condition (4) complied with, without the need to take formal action.

**2.7** 04/08/2021- an application was submitted by the Owners of flat B, for details pursuant to condition 4 (screening) granted under planning permission reference 2016/1295/P dated 03/05/2016 (Ref:

2021/3774/P) The Council is awaiting confirmation for this application to be formally withdrawn.

- 2.8** 27/09/2021- an application was submitted by the Owners of flat B, for Option A: Erection of a terrace above the existing ground floor rear extension or Option B: Erection of a metal balcony above the existing ground floor rear extension (Ref: 2021/4701/INVALID). The application was subsequently withdrawn.
- 2.9** 17/06/2023- an application was submitted by the Appellants for the removal condition 4 and any 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). The application has not been validated and the Council is awaiting a response from the Appellants to formally withdraw.
- 2.10** 21/06/2023- a complaint received in respect to the Owners of Flat B, 17 Nassington Road for installation of a door in the rear elevation at 1<sup>st</sup> floor level (Ref: EN23/0499). This door is for access to the terrace. This case is still active. A retrospective application has been submitted for the retention of the door and enforcement action has been held in abeyance until such time the application has been determined.
- 2.11** 26/09/2023- complaint received in respect to flat A that security cameras and razor wire were being installed on the flat roof of the rear extension (Ref: EN23/0772). This case forms the basis of these current appeals.
- 2.12** 23/10/2023- an enforcement notice was issued on the Appellants, seeking the removal of the razor wire from the flat roof of the single-storey rear extension. The notice required that within one month of it taking effect, the Owner should:
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.

The notice would have taken effect on 5<sup>th</sup> December 2023, had the appeals not been lodged (**See Appendix 2**)

**3.0 Relevant planning policy:**

- 3.1** In arriving at its current position the London Borough of Camden has had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case. The

development subject to this appeal was considered in the light of the following policies:-

**National policy documents:-**

- 3.2** National Planning Policy Framework (NPPF) 2023 (Para 59) - The Council's policies within the Officer's Delegated Report are recent and up to date. The Camden Local Plan was adopted in 2017 and the Camden Planning Guidance CPG1 on Design & CPG on Amenity & adopted in 2021 after extensive consultation.

**3.3 Development Plan:-**

The relevant policies contained in Camden's Local Plan 2017 are listed below:

D1- Design  
D2- Heritage  
CS5- Safety and Security

The full text of each of the policies was sent with the questionnaire documents.

**3.4 Supplementary Planning Guidance:**

- **CPG Design 2021:**

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

- **Home Improvements (2021)-** Paragraphs 2.1.1 & 2.3.3

**4.0 Comments on appellant's grounds of appeal:**

**The appellants have appealed on grounds A,B, C,F and G. The grounds of appeal are summarised and addressed below under these headings.**

**Ground A- that Planning permission should be granted:**

- 4.1** In paragraph a) of the Appellant's statement it is asserted that no evidence or supporting documentation has been provided, that the installation harms the character and appearance of the host building. However, the council refers to the Officer delegated report and the paragraph under the section entitled 'Assessment', which specifically states that:

*"The coils of razor wire are permanently fixed to the building and form a permanent alteration to the building therefore requires 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 the 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".*

- 4.2** Therefore, the Council refutes the notion that no evidence or supporting documents have been provided as policies D1 and D2 form part of the Council's Local Development Plan 2017, and is an adopted document, which provides the framework for development in the Borough in line with National Policy.
- 4.3** The Appellant further goes on to state in paragraph a) that the temporary installation seeks to enhance the character and appearance of the building by creating the infrastructure for a 'living roof' to cover the entirety of the surface of the rear extension. It should be noted that the Appellant submitted an application under ref: 2016/1295/P for a roof terrace. At no point was a 'living roof' inferred until the appeal submission. Moreover, the enforcement notice solely relates to razor wire that was installed on the roof, given that the 'living roof' element was not present at the time. Although the Appellants are aware that the installation was unauthorised they have however, continued to flout planning regulations and have incrementally added to the structure despite the notice being issued (**See Appendix 3**). The sole purpose for the installation of the razor wire on the flat roof of the extension was to deter the occupiers located at first floor level from accessing the roof for amenity space. The Council argues that the installation of a living roof on the flat roof of the rear extension was not contingent on the razor wire being installed underneath. Moreover, the Council does not consider faux ivy to be a 'living roof', and remains concerned that this element of the proposal will contribute to detracting from the visual

amenity of the host building and this part of the South Hill Park Conservation Area once it has weathered, given that it is likely to have an unsightly appearance.

**Ground B- That the breach of control alleged in the enforcement notice has not occurred as a matter of fact:**

- 4.4 Paragraph b) of the Appellants statement infers that the works alleged in the notice have not occurred in the manner as set out by the Council. The Council contends that razor wire was installed on the flat roof of the rear extension, therefore the allegation as set out in the enforcement notice is correct and is a matter of fact. The Appellants also state that the works should be viewed as temporary, and not complete and that further adjustments can be made to ensure the final installation respects the residential nature of the property. The Council is of the view that if the works were of a temporary nature then they would be moveable and not affixed in their position, or require completion or the need to be adjusted to ensure that the 'final installation' respects the residential nature of the property. Rather than comply with the requirements as set out in the enforcement notice, which solely relates to the installation of the razor wire that has been affixed to the flat roof of the single-storey rear extension, the Appellants have wilfully flouted planning regulations by incrementally installing mock ivy in an attempt to conceal the unauthorised razor wire that has been installed and is subject to enforcement action.

**Ground C- That there has not been a breach of planning control:**

- 4.5 Paragraph c) of the Appellants statement argues that the matters cited in the enforcement notice do not constitute a breach of planning control but have not provided any explanation of this stance. Given that the razor wire has been installed and affixed to the roof of the rear extension, it is considered to be a permanent feature that would not fall under permitted development and therefore, the Council contends that planning permission would have been required. The Appellant further goes on to state that the Council is applying their own rules and policies unequally and unfairly. However, there is no attempt to substantiate this claim. The Council contends that this should not be used as a justification for undertaking unauthorised development.

**Ground F- That the steps required to comply with the requirements of the notice are excessive and lesser steps would overcome the objections:**

- 4.6 Paragraph f) of the Appellant's statement infers that the measures to comply with the enforcement notice are excessive, i.e., the removal of the living roof infrastructure. This is incorrect. The notice requires removal of the razor wire solely. When the notice was issued there was no mention of a living roof being proposed/installed on the roof of the single-storey rear extension.

- 4.7** A letter submitted to the Council from GNP Brothers LTD and dated 01/09/2023, confirms that the development was for the sole purpose of securing a security system. At no point is a 'living roof' confirmed in the letter (**See Appendix 4**). Moreover, the Council would argue that a 'living roof' has not been installed on the flat roof of the rear extension, and that the faux ivy that has been placed over the razor wire is an attempt to conceal the unauthorised works that are currently subject to enforcement action. The Appellant further goes on to justify the unauthorised development by stating that *"coherent advice from the Council could ensure that the installation satisfies the criteria not to harm the character and appearance of the host building and that this is a civil matter"*. The Council argues that by virtue of the above statement, there is some acknowledgement by the Appellants that there is some harm to the character and appearance of the host building.
- 4.8** As asserted by the Appellants, it is not a civil matter when the Council is exercising its power to ensure that development complies with current local plan policies and planning regulations, but is indeed a statutory duty. The Appellant further goes on to state that *"the Council should provide the opportunity for granting a retrospective planning application as was afforded to the Owners of 17B Nassington Road"*.

The Council confirms that there are instances where applications are allowed to be submitted to regularise development. However, this would only apply if in the Council's opinion the development is deemed acceptable in principle. In this particular case, the razor wire installed on the flat roof of the rear extension is considered to be unacceptable in terms of its design, and is considered to detract from the character and appearance of the host building. Therefore, a retrospective application was not encouraged, as it would have likely been recommended for a refusal. As such, the Council considers that the razor wire should be removed, as there are no lesser steps that can be taken that would overcome the objections/resolve this current planning breach.

- 4.9** The Council notes that there is an additional concern about the razor wire in relation to a secondary means of escape. In the event that there is a fire/other type of emergency at the front of the property that would require a secondary means of escape to the rear, then the development on the flat roof of the rear extension would hinder a secondary means of escape as this will now present a safety hazard to anyone trying to gain access onto the roof of the rear extension for means of escape by reason of the razor wire that is installed beneath the faux ivy.



### **Ground G- That the time to comply with the notice is too short:**

- 4.10** In paragraph g) of their statement, the Appellants contend that the enforcement notice was served within hours of the complaint being made. This is not the case, the complaint was made on 26/09/2023 and the notice issued on 23/10/2023 in respect to unauthorised works. The Appellants have confirmed that in the event that the enforcement notice needs to be complied with that the period for compliance does not allow for corrective measures to be taken, given inclement weather, proximity of holiday season and recent actions taken by the Owners of 17B Nassington Road.

The council notes that the appeal process is likely to extend beyond the holiday period and compliance is not contingent on the weather or the actions of a third party. The Council considers that one month is sufficient to remove the razor wire that has been installed on the roof of the single-storey rear extension. However, in the event that the Inspector is minded to dismiss these appeals, and considers that the compliance period needs to be extended, then the Council would raise no objection should it be deemed necessary.

### **Other issues**

- 4.11** The Appellants have stated that they are deeply offended by the unsubstantiated allegation that, during the works, local residents said they were reminded of the holocaust and that, cast in a particular light, could be deemed hibernophobic on the part of the Council. The relevant email is set out in **appendix 5**. The Council points out that it had no knowledge of the Appellant's ethnicity prior to the appeals being lodged. The Council therefore refutes the accusation that its actions can be deemed hibernophobic or in any way be biased or prejudicial.

### **5.0 Conclusion**

- 5.1** The Council maintains that the unauthorised razor wire that has been installed on the flat roof of the single-storey 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 and thereby contrary to policies (D1-Design), and (D2- Heritage) of Camden's Local Plan 2017.
- 5.2** The additional elements that were installed subsequent to the enforcement notice being issued does not serve to overcome the objections, as the faux ivy once weathered would become unsightly, which will further detract from the visual amenity at the site.
- 5.3** In the event that the Inspector is minded to allow these appeals, then I would request that the suggested conditions as set out in **Appendix 6** are attached to the appeal decision.

For the reasons give above, the Council respectfully requests that these appeals are dismissed. If you require any further information or clarification on any matters associated with this case, then please contact Angela Ryan on the above direct dial number.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'A Ryan', written in a cursive style.

Angela Ryan  
Planning Officer  
Culture and Environment Department