

Address:	Flat B 17 Nassington Road London NW3 2TX		4
Application Number(s):	2024/0039/P	Officer: Sam FitzPatrick	
Ward:	Hampstead Town		
Date Received:	04/01/2024		
Proposal:	Replacement of existing window with door opening (retrospective), installation of new timber framed door and juliette balcony to opening on rear elevation at first floor level.		
Background Papers, Supporting Documents and Drawing Numbers:			
Design and Access Statement (prepared by Constructum); P76.NAS_01; P76.NAS_PL 02; P76.NAS_PL 03; P76.NAS_PL 04; P76.NAS_PL 07; P76.NAS_PL 08; P76.NAS_PL 09.			
RECOMMENDATION SUMMARY:			
Grant conditional planning permission with enforcement action to be taken.			
Applicant:	Agent:		
Susan Bennett 17B Nassington Road London NW3 2TX	Napoleon Tolner Block D, 1 st Floor Southgate Office 286 Chase Road N14 6HF		

EXECUTIVE SUMMARY

- i) The application site is a flat situated on the first floor of a four-storey house located on the south side of Nassington Road, and the proposal is for planning permission to replace an existing window to the rear elevation with a door and the installation of a juliette balcony to the door.
- ii) The proposed works are in part retrospective. The rear first floor window has already been removed, the opening enlarged and a uPVC door installed that provides access onto the flat roof the ground floor rear extension. These works took place without planning permission and as such are unlawful. This proposal would retain the opening, but remove the uPVC door and install a timber replacement door, as well as install a metal juliette balcony to the opening which would restrict access to the adjacent flat roof which belongs to the flat below. The juliette balcony would sit above and independent of the roof of the ground floor extension.

- iii) The proposal would result in very minor external alterations to the building, and the design of the proposed works would be acceptable in terms of materiality and scale. There would also be very limited public visibility due to the position of the building and the siting of the proposed works. As such, the proposal would preserve the character and appearance of the South Hill Park Conservation Area.
- iv) Due to the nature of the works, it is not considered that they would result in any negative impacts on the amenity of residents. One objection was received from neighbours, whose concerns include the impact on amenity, however officers view is that the impact is not significant and there would be no justified reason to refuse permission on this basis.
- v) The proposal is not considered to cause harm to the amenity of residents or negatively impact the character or appearance of the South Hill Park Conservation Area. The proposed development complies with the development plan as a whole and is acceptable and in accordance with Local Plan policies, so it is recommended that conditional planning permission is granted, with enforcement action to be taken (due to the existing unlawful development). The applicant will be required by the enforcement notice to either carry out the proposed works to replace the unauthorised uPVC door with the proposed timber door, or reinstate a timber sash window to match the one previously in place prior to the unlawful works taking place.

OFFICER REPORT

Reason for Referral to Committee: An application submitted by or on behalf of a member of the Council (or their spouse or partner) or any Council employee (or their spouse or partner) [Clause 3(vi)].

1. SITE AND BACKGROUND

Location

- 1.1 The application site is a flat situated on the first floor of a four-storey house located on the south side of Nassington Road. The building itself is split into residential flats at each level numbered A-D, and this application involves Flat B, on the first floor. The garden of the house is also split into separate sections that fall under the ownership of different flats.
- 1.2 The site is located within the South Hill Park Conservation Area. Though it is not listed, it is noted as making a positive contribution to the conservation area in the South Hill Park Conservation Area Statement. There are no listed buildings in the immediate vicinity.
- 1.3 The application site is located within the Hampstead Neighbourhood Plan Area.



Figure 1 – The rear elevation of the existing building with the window that has been replaced outlined in red.

2. THE PROPOSAL

- 2.1 The proposal is for the installation of a timber door and metal balustrading to the rear elevation at first floor level in order to create a Juliette balcony. The door would replace a uPVC door that has been unlawfully installed where there was previously a timber sash window.
- 2.2 The Juliette balcony would consist of metal balustrading fixed to the rear elevation. This would measure approximately 1.3m wide and 1.5m high, and would not include any kind of platform above or access onto the roof of the ground floor rear extension.

3. RELEVANT HISTORY

The site – 17 Nassington Road

- 3.1 **2021/3774/P** – 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. **Withdrawn 07/02/2024 due to planning permission being required for replacement of window with door.**
- 3.2 **2016/4675/P** – 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. **Granted 16/09/2016.**
- 3.3 **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. **Granted 03/05/2016.**
- 3.4 **2013/2358/P** – Erection of single storey rear extension to ground floor of existing flat (Class C3). **Granted 12/08/2013.**

The area

9 Nassington Road

- 3.5 **2019/2316/P** – Erection of single storey rear extension at lower ground floor level including formation of a roof terrace and widening of 2 upper ground floor rear windows to form doors; excavation and enlargement of existing lower ground floor level including formation of a front lightwell and new external side access steps; erection of roof dormers to side and rear roof slopes; alterations to rear and side fenestration. **Granted 18/09/2019.**

11 Nassington Road

- 3.6 **2005/1422/P** – The replacement of an existing rear extension with balcony by a new full width single storey rear extension with terrace above, and erection of a rear dormer and installation of two rooflights on the side and one to front. **Granted 27/05/2005.**

19 Nassington Road

- 3.7 **8701079** – Conversion from single-family house into five flats including the erection of a single storey rear extension and the formation of dormer windows on the front, side, and rear roof slopes. **Granted 20/08/1987.**

21 Nassington Road

- 3.8 **2007/1827/P** – The erection of a single storey rear extension to lower ground floor flat, the replacement of an upper ground floor rear window with a door and the erection of railings on the flat roof to enable its use as a roof terrace for the upper ground floor flat. **Granted 25/06/2007.**

4. **CONSULTATION**

Statutory consultees

Hampstead Neighbourhood Forum

- 4.1 No comments received.

Local groups

South Hill Park Conservation Area Advisory Committee

- 4.2 No comment or objection received:

Adjoining occupiers

- 4.3 A site notice was displayed to the front of the property from 14/02/2024 to 09/03/2024, and the application was advertised in the local paper on 15/02/2024 (expiring 10/03/2024).

- 4.4 It was not considered necessary to erect more than one site notice as the rear of the property faces only allotments and the London Overground tracks between Hampstead Heath and Gospel Oak. As such, there are no occupiers in this direction likely to be impacted by the proposal.

- 4.5 An objection was received from one local household, which occupies the flat below the flat that the application relates to. The objection received by the Council is on the Council's website. The key issues raised are as follows:

- There are a number of problems with the submission. These include the drawings being inaccurate and incorrect, such as by indicating that the window has not yet been replaced by the uPVC door, not showing the height of the door respective to the extension parapet adequately, and

mistakenly labelling the project as '17A Nassington Road' instead of '17B Nassington Road'. The submitted Design and Access statement is also missing a number of figures including site photographs, and notice was not given to neighbours in line with Certificate B of the application form.

- The roof of the extension is fully within the demise of Flat 17A and the occupiers of this flat do not consent to a roof terrace above, which may fall within the air rights of their demise. There is no precedent for such a roof terrace.
- The proposed door and Juliette balcony would fail to conserve or preserve the character and appearance of both the host property and the wider South Hill Park Conservation Area and there is no public benefit gained from the provision of a door in place of a window. The proposal would result in harm due to visual clutter and disruption of the rhythm of the window symmetry at the host building and adjacent properties.
- No privacy screens should be included as they would add clutter and be unnecessary for a Juliette balcony.
- The proposed door may open outwards which would result in trespass onto the roof of the ground floor extension.
- The proposed door would result in additional overlooking to 17A, as well as of the garden space to rear. It may also result in the use of the roof extension as an unauthorised roof terrace – which would raise safety concerns as well as amenity issues particularly with regards to privacy and noise disturbance.

Officer response:

- *The original submission did include some errors in the submitted plans, however these have since been amended where required, such as by removing privacy screens and including full annotation. The window is shown in the 'existing' drawings as it is the unlawful replacement of the window with a door opening that this application seeks to gain retrospective permission for. The recommendation given is also with enforcement action to be taken, acknowledging the issues with the uPVC door replacement and requiring the replacement with a timber door which is more appropriate and for which permission is sought under this application. Planning Officers have also visited the site themselves and do not require the site photographs that appear to be missing from the Design and Access Statement to make a recommendation.*
- *Issues relating to access, easements, and disputes between private property owners are not a material planning consideration. The correct Certificate (B) was filled out with the application form that confirms notice has been given to land interests within the application site boundary.*
- *Please see section 7 of this report, where concerns relating to design and heritage are addressed.*

- *Please see section 8 of this report, where concerns relating to amenity are addressed.*
- *It should be noted that the proposed door would not be possible to open outwards, due to the nature of a Juliette balcony. The application can also only be assessed in terms of what is proposed, not potential scenarios which may occur, which is not a material consideration.*

5. POLICY

National and regional policy and guidance

[National Planning Policy Framework 2023 \(NPPF\)](#)
[The London Plan 2021](#)

Local policy and guidance

Camden Local Plan (2017)

[Policy A1 Managing the impact of development](#)

[Policy D1 Design](#)

[Policy D2 Heritage](#)

Hampstead Neighbourhood Plan (2018)

[DH1 Design](#)

[DH2 Conservation areas and listed buildings](#)

Supplementary Planning Documents and Guidance

Camden Planning Guidance (CPGs):

[Amenity - January 2021](#)

[Design - January 2021](#)

[Home Improvements – January 2021](#)

Other guidance:

South Hill Park Conservation Area Statement (2001)

Draft Camden Local Plan

The council has published a new [Draft Camden Local Plan](#) (incorporating Site Allocations) consultation (DCLP) on this document has now ended. The DCLP is a material consideration and can be taken into account in the determination of planning applications, but has limited weight at this stage. The weight that can be given to it will increase as it progresses towards adoption (anticipated 2026).

6. ASSESSMENT

- 6.1 The principal considerations material to the determination of this application are considered in the following sections of this report:

7	Design and heritage
8	Impact on amenity
9	Conclusion

7. DESIGN AND HERITAGE

- 7.1 The Council’s design policies are aimed at achieving the highest standard of design in all developments. Policy D1 (Design) of the Local Plan requires development to be of the highest architectural and urban design quality which improves the function, appearance, and character of the area, while Policy D2 (Heritage) states that the Council will preserve and, where appropriate, enhance Camden’s rich and diverse heritage assets and their settings, including conservation areas. Camden’s Local Plan policies are supported by the Camden Planning Guidance on ‘Design’ and ‘Home Improvements’, as well as the South Hill Park Conservation Area Statement.
- 7.2 The Hampstead Neighbourhood Plan also includes Policies DH1 (Design) and DH2 (Conservation areas and listed buildings), which are intended to support a high quality of development within the neighbourhood area. This includes setting out a requirement for development to respond positively to the existing rhythm, proportion, height, and materials of surrounding buildings, as well as requiring development to protect and/or enhance buildings making a positive contribution to the Conservation Area.
- 7.3 The Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) provides a statutory presumption in favour of the preservation of the character and appearance of Conservation Areas and their settings. Considerable importance and weight should be attached to their preservation. A proposal which would cause harm should only be permitted where there are strong countervailing planning considerations which are sufficiently powerful to outweigh the presumption.
- 7.4 The duties imposed by the Listed Buildings Act are in addition to the duty imposed by section 38(6) of the Planning and Compulsory Purchase Act 2004, to determine the application in accordance with the development plan unless material considerations indicate otherwise.
- 7.5 The National Planning Policy Framework (NPPF) requires its own exercise to be undertaken as set out in Chapter 16 – ‘Conserving and enhancing the historic environment’. Paragraph 201 requires local planning authorities to identify and assess the particular significance of any heritage assets that may be affected by a proposal. Paragraphs 205-209 require consideration as to the impact of a proposed development on the significance of a designated heritage asset, including an assessment and identification of any harm/the degree of harm.

- 7.6 The proposed development involves the replacement of a first floor rear window with a door and the installation of metal balustrades to form a Juliette balcony. It is noted that the existing window has already been unlawfully replaced a uPVC door (and no metal balustrading), which has not been granted planning permission.
- 7.7 The application site is a flat forming part of a semi-detached building, which is identified as making a positive contribution to the South Hill Park Conservation Area. The relevant Conservation Area statement notes that buildings along Nassington Road are typically in the Gothic Revival style, with carved capitals and canted bays.
- 7.8 The proposed door is designed to be a traditional style with French doors opening inwards and would be constructed with timber frames, similar to those in the immediately adjacent property at no.19. The new door would not remove historic or special architectural features from the rear elevation (such as the lintel), and would be the same width as the existing window opening. The overall height of the opening within the elevation would not increase, but there would be a slight dropping of the cill to facilitate the height of the door (which is greater than the height of the window). The balustrading required for the Juliette balcony would be metal and would be a simple traditional design with vertical bars.
- 7.9 The additions to the rear would not be considered to result in a significant change to the building's character or appearance, and would therefore not cause harm to the host property or the wider area. The attached property at no.19 has already been altered to introduce French doors that lead onto the roof terrace of the rear extension (approved under planning ref. 8701079). As such, there is no complete symmetry between no.17 and no.19 at present, and the replacement of the window with a door would not harm the symmetry of the houses or negatively impact the appearance of the properties.
- 7.10 The previously approved application at no.19 (the attached property to the application site) also included the addition of balconies to all upper level windows on the rear elevation. Therefore, the principle of a Juliette balcony in this location is not an inappropriate addition. It should also be noted that raised terraces to the rear of nearby properties have also been approved at nos.9, 11, and 21, as well as the host property.
- 7.11 The changes to the rear elevation would have very limited visibility from the public realm. Due to the positioning of the building, there are no properties located in close proximity to the rear; to the south there are allotments and the railway connecting Gospel Oak and Hampstead Heath, meaning the rear elevation is difficult to see from the public realm.
- 7.12 The proposed works would be relatively minor and would be considered to be subservient to the host building. A number of buildings along this side of

Nassington Road have been altered to replace windows at first floor level with doors in a similar fashion, and the replacement door would be a traditional style that respects the character, form, and rhythm of the existing building. The materiality would also match the appearance and character of the building and the area more widely.

- 7.13 It is noted that the existing window has already been replaced by a uPVC door (and no balustrading) without planning permission. This door is not considered to be acceptable due to the inappropriate materiality and the opening mechanism of the door outwards. Notwithstanding the assessment of the proposed door, the unlawful door is not acceptable and should be removed, as it would be considered to cause harm to the building and wider Conservation Area. The application is recommended for approval with the instruction to issue an enforcement notice; this would require the applicant to remove the uPVC and then either install the proposed timber door and balustrading in line with the approved plans, or reinstate a timber sash window to match the one previously in place and unlawfully removed.
- 7.14 Overall, the proposed timber door and metal balustrading to form a Juliette balcony would be considered an appropriate addition that would preserve the appearance or character of the host building or the wider Conservation Area. For this reason, the character and appearance of the South Hill Park Conservation Area would be preserved, in line with the policies of both the London Borough of Camden Local Plan and the Hampstead Neighbourhood Plan.
- 7.15 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 Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

8. IMPACT ON AMENITY

- 8.1 Policy A1 (Managing the impact of development) of the Local Plan seeks to protect the quality of life of occupiers and neighbours. It should be ensured that the impact of development is fully considered and does not harm the amenity of neighbouring residents. This includes light, privacy, outlook, and noise disturbance. The thrust of the policies is that the quality of life of current and future occupiers should be protected and development which causes an unacceptable level of harm to amenity should be refused.
- 8.2 The Camden Planning Guidance on 'Amenity' is also relevant with regards to the impact on the amenity of residential properties in the area, requiring careful consideration of the impacts of development on light, outlook, privacy, and noise. It is expected that development will be designed to protect the privacy of occupants of both new and existing dwellings to a reasonable

degree and the extent of overlooking will be assessed on a case-by-case basis.

- 8.3 Due to the nature of the proposed door and juliette balcony, there would not be any additional opportunities for overlooking created by the works. The metal balustrading would be flush with the rear elevation, so there would be no new position created from which neighbouring occupiers would be overlooked beyond what already exists. Similarly, the dropping of the window cill to facilitate the new door would not create any additional overlooking opportunities. Although the previously approved roof terrace to the flat roof of the rear extension at the property required privacy screens to protect the privacy of neighbouring occupiers, the nature of a juliette balcony means that this would not be required in this instance. As such, it is not considered that there would be any impacts on amenity with regards to privacy or overlooking.
- 8.4 As a result of the very limited nature of the works, it is not expected that there would be any impact in terms of light. The creation of a juliette balcony would also not be considered to create any unacceptable or significant opportunity for noise disturbance, given that a juliette balcony in use is functionally very similar to an open window, which would not be considered to result in an unacceptable level of noise.
- 8.5 Given the above, the proposal is considered to comply with Policy A1 of the London Borough of Camden Local Plan, and no undue harm to neighbouring amenity would be caused as a result of the proposed development.

9. CONCLUSION

- 9.1 Notwithstanding the unlawful uPVC door that has already been installed, the proposed new timber door and metal balustrading to form a juliette balcony is considered to be an acceptable addition that would preserve the character and appearance of the host property and the wider conservation area. There would be no material loss of amenity to neighbours as a result of the development. As stated in the 'consultation' section of this report, any concerns relating to rights of access, easements, and disputes between private property owners are not material planning considerations and do not form part of this assessment.
- 9.2 Given the uPVC door that has been installed without planning permission, the recommendation that is made is to grant the proposed timber door and metal balustrading, with enforcement action to be taken against the unlawful and unacceptable uPVC door to require actions to either carry out the proposed works or reinstate the timber sash window as previously existed within three months of the enforcement notice.

10. RECOMMENDATION

10.1 Grant conditional Planning Permission with enforcement action to be taken.

11. LEGAL COMMENTS

11.1 Members are referred to the note from the Legal Division at the start of the Agenda.

12. CONDITIONS

1	<p>Three years from the date of this permission This development must be begun not later than three years from the date of this permission.</p> <p>Reason: In order to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).</p>
2	<p>Approved drawings The development hereby permitted shall be carried out in accordance with the following approved plans and documents:</p> <p>P76.NAS_01; P76.NAS_PL 02; P76.NAS_PL 03; P76.NAS_PL 04; P76.NAS_PL 07; P76.NAS_PL 08; P76.NAS_PL 09.</p> <p>Reason: For the avoidance of doubt and in the interest of proper planning.</p>
3	<p>External work to match existing All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.</p> <p>Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of Policies D1 and D2 of the London Borough of Camden Local Plan 2017.</p>

13. INFORMATIVES

1	<p>Warning of enforcement action to be taken The unauthorised uPVC door located to the rear at first floor level is considered to be harmful to the character and appearance of both the host building and the South Hill Park Conservation Area. As such, it is recommended that the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended requiring within 3 months of the date of the notice, the uPVC door on the rear elevation at first floor level is either: (a) removed and replaced with the timber door as shown on plan ref: 'P76.NAS_PL 09', or (b) removed and replaced with a timber sash window to match the proportions and design of the one previously in place, and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under Section 179 or appropriate power and/or take direct action under Section 178.</p>
2	<p>Building Control Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation</p>

	<p>between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).</p>
3	<p>Public Highway</p> <p>This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444). Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.</p>
4	<p>Environmental Health</p> <p>All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at www.camden.gov.uk) or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)</p> <p>Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.</p>

Location Plan

2024/0039/P – 17B Nassington Road



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