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Contact: Tony Young
Direct line: 020 7974 2687
Email: tony.young@camden.gov.uk

Planning Solutions Team
Planning and Regeneration
Culture & Environment
Directorate
London Borough of Camden
2nd Floor, 5 Pancras Square
London
N1C 4AG

Tel: 020 7974 4444
www.camden.gov.uk/planning

The Planning Inspectorate
3C Eagle Wing
Temple Quay House
2 The Square
Bristol BS1 6PN

Dear Sarah,

Town and Country Planning Act 1990
Appeal by Ms Krystle Omeara
Site Address: Flat 3, 70 Canfield Gardens, Camden, LONDON, NW6 3ED

I write in connection with the above appeal against the refusal of planning permission (Ref. 2023/4336/P) for the **Replacement of existing wooden balustrades to rear roof terrace at 1st floor level with glass balustrades.**

1.0 Summary

- 1.1 The appeal site comprises a 3-storey, semi-detached building on the north side of Canfield Gardens. The property is divided into residential flats and the appeal relates to a 1st floor flat (Flat 3).
- 1.2 The building is not listed and is located within the South Hampstead Conservation Area. The building and wider terrace of properties (nos. 2-92 (even)) are identified as a group of buildings which make a positive contribution to the special character and appearance of the conservation area (South Hampstead Conservation Area Appraisal and Management Strategy statement, adopted February 2011).
- 1.3 The property is covered by an Article 4 Direction in regard to basement, heritage & conservation matters. This demonstrates that the Council seeks to exercise greater control over development at the appeal site and other properties covered by the Direction.
- 1.4 Planning permission was refused on 17 February 2024 (a copy of the decision notice was sent with the questionnaire) for the replacement of existing wooden balustrades

to rear roof terrace at 1st floor level with glass balustrades. It was refused for the following reason:

1. The proposed glass balustrade, by virtue of its detailed design, material, scale and location, would result in an incongruous and unsympathetic addition to the rear elevation at 1st floor roof level, which would be harmful to the character and appearance of the host building and wider terrace of properties, identified as positive contributors (nos. 2-92 (even)), and the South Hampstead Conservation Area, contrary to Policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.

1.5 The Council's case is set out in detail in the Officer's Delegated Report and it will be relied on as the principal Statement of Case. The report details the appeal site and surroundings, the site history and an assessment of the proposal. A copy of the report was sent with the questionnaire.

1.6 In addition to the information sent with the questionnaire, I would be pleased if the Inspector could also take into account the following information and comments before deciding the appeal.

2.0 Status of Policies and Guidance

2.1 In determining the above-mentioned application, 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 full text of the relevant policies was sent with the questionnaire documents.

2.2 The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on the 03 July 2017 and replaced the Local Development Framework Core Strategy and Camden Development Policies documents as the basis for planning decisions and future development in the borough. The relevant Local Plan policies as they relate to the reasons for refusal are:

- A1 Managing the impact of development
- D1 Design
- D2 Heritage

2.3 Additionally, the Council has published a new Draft Camden Local Plan (incorporating Site Allocations) for consultation (DCLP). The DCLP is a material consideration and can be taken into account in the determination of planning applications which has limited weight at this stage. The weight that can be given to it will increase as it progresses towards adoption (anticipated 2026).

2.4 The Council also refers to the following supporting guidance documents:

Camden Planning Guidance

- CPG Home Improvements (January 2021) – Chapter's 'Key principles' (pages 16-32), '1. Materials' (pages 36-37) and '2.2.3 Balconies and Terraces' (pages 54-55)
- CPG Design (January 2021) - chapters 2 (Design excellence) and 3 (Heritage)
- CPG Amenity (January 2021) - chapters 2 (Overlooking, privacy and outlook) and 3 (Daylight and sunlight)

Other guidance

- South Hampstead Conservation Area Appraisal and Management Strategy statement (adopted February 2011)

2.5 The Council also refers to the following legislation, policies and guidance within the body of the Officer's Delegated Report:

- National Planning Policy Framework (2023)
- London Plan (2021)

3.0 Comments on the Appellant's Grounds of Appeal

3.1 The Appellant's grounds of appeal are summarised as follows:

1. Impact at the front of appeal site
2. Suitability of glass material and prominence
3. Existing conservatory extensions
4. Planning precedent and policies
5. Amendments and engagement

4.0 Impact at the front of appeal site

4.1 The Appellant states that the proposed balustrade would preserve the character of the area at the front of the appeal site given that the terrace cannot be seen from the street.

5.0 Response to ground of appeal 1

5.1 Given that the proposed alterations would affect only the rear of the building, it is firstly brought to the attention of the Planning Inspector that there is no dispute between the Council and the Appellant as to the potential impact of the proposal at the front of the appeal site.

5.2 Both parties agree that the character and appearance of the South Hampstead Conservation Area at the front would be preserved (as previously stated in Paragraph 3.15 of the Officer's Delegated Report).

- 5.3 Notwithstanding the above, and contrary to the Appellant's view, the Council considers that it is not only the front of the property which forms an important part of the appeal building, the wider terrace and the conservation area. It is for this reason that the Council has concluded the appeal proposal would result in an incongruous and unsympathetic addition to the rear elevation of the building (for the reasons as set out in Paragraphs 3.5 – 3.24 of the Officer's Delegated Report), which would be harmful to the character and appearance of the appeal building and wider terrace of properties, identified as positive contributors (nos. 2-92 (even)), and to the South Hampstead Conservation Area.
- 5.4 The South Hampstead Conservation Area Appraisal and Management Strategy statement (adopted February 2011) outlines in Paragraph 13.22 that '*the appearance of all buildings of historic interest (listed and unlisted) with the Conservation Area is harmed by the removal or loss of original architectural features and the use of inappropriate materials*'.
- 5.5 The harm caused to the significance of the South Hampstead Conservation Area, by virtue of the detailed design, material, scale and location of the proposed glass balustrade, would be less than substantial. Paragraph 208 of the National Planning Policy Framework (NPPF) states that where a proposal would lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal. In this case, there would appear to be no public benefits that would outweigh the less than substantial harm identified above. As such, the proposal would be contrary to Policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.
- 5.6 Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the South Hampstead Conservation Area, under s.72 of the Planning (Listed Buildings and Conservation Area) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

6.0 Suitability of glass material and prominence

- 6.1 The Appellant argues that a large proportion of rear elevations of 4-storey buildings within the locality are made up of glass material in the form of extensions and windows, and as such, the proposed glass balustrade would conform with the character of the area.
- 6.2 While accepting that any balustrades or railings serving existing terraces at upper floor level are made of either timber or metal, the Appellant considers that the use of glass would preserve the character of the area and would be less visible than either metal or wooden balustrades.
- 6.3 The Appellant considers glass material to be equally resilient as metal material and requires low maintenance by comparison as metal weathers over time and needs

repainting. Further, the Appellant suggests that glass balustrades make any greenery or plants behind them far more visible when compared to wood.

7.0 Response to ground of appeal 2

- 7.1 The general use of glass in windows and doors on buildings is common in an urban environment and beyond dispute. However, it is not considered by the Council that the presence of glass in windows and ground floor extensions in the area necessarily means that it is a suitable material when used in other forms as the Appellant suggests.
- 7.2 Contrary to the Appellant's reasoning, it is the Council's view that a large expanse of horizontally aligned glass stretching along nearly the full-width of the rear elevation of the appeal building (approximately 10.4 metres) would not be comparable with the prevailing forms of glazing or fenestration that already exist on the rear elevation, especially given the proposed upper floor level position (1st floor level in this case). But rather, the proposed glass balustrade would appear disproportionately large and out-of-keeping in this context, neither respecting or relating well to the existing traditional character and appearance of the appeal building or neighbouring buildings.
- 7.3 In regard to the Appellant's assertion that the use of glass would preserve the character of the area as it would be less visible than either metal or wooden balustrades, it is firstly noted (as acknowledged by the Appellant) that any balustrades or railings serving existing rear terraces at upper floor level in the immediate locality are predominantly made from either timber or metal (the Inspector is also referred to Section 10 'Planning precedent and policies' below for consideration of any examples of glass screens or balustrades).
- 7.4 Given that the use of metal or wood material accords with Council guidance (see Section 2.2.3 of CPG Home Improvements) for balustrades/railings to balconies and terraces, and the significant number of instances where planning permission has been granted for these (see 'Relevant history' section of the Officer's Delegated Report, pages 2-4), the prominence or otherwise of these materials is not a concern as they are considered to be visually appropriate in terms of their design and material, and moreover, form part of the area's established character. The prominence of inappropriate materials such as glass in the form proposed, however, is a concern in the Council's view.
- 7.5 The Council does not dispute that glass has some qualities that can make it an appropriate material for certain alterations under different circumstances at other sites, depending amongst other things on the proposed design, location and particular site context. In fact, Section 2.2.3 (Balconies and terraces) of CPG Home Improvements recognises this but advises that glass balustrades are more appropriate for modern buildings, rather than traditional buildings.

- 7.6 The appeal site and wider terrace of neighbouring properties (nos. 2-92 (even)) are a well-preserved group of traditional red-brick buildings, identified as making a positive contribution to the special character and appearance of the conservation area (South Hampstead Conservation Area Appraisal and Management Strategy statement, adopted February 2011). CPG Home Improvements advises that for traditional buildings such as these *'metal railings are preferred as they integrate well with the building's character'*.
- 7.7 As such, in spite of any qualities associated with glass that the Appellant claims would result, the proposed introduction of glass material would nevertheless appear out-of-keeping with the general character and traditional appearance of the appeal site and wider rear group of similar neighbouring buildings in this particular context, particularly given the proposed upper floor level location and extensive amount of glass used, contrary to the policies and guidance stated above.
- 7.8 Furthermore, the development is noted as being situated in a prominent and widely visible position given the open views afforded at the rear of neighbouring properties located in Compayne Gardens which face the rear of the host building, as well as, from within closer views available along the terrace from properties on either side. In this context, the incongruity of the proposed glass balustrade would be accentuated, so appearing unduly prominent and visually inharmonious when seen from these views.
- 7.9 Finally, in terms of materials it is noted that the proposal would replace an existing timber balustrade that already surrounds the terrace which appeared to be in fairly good condition when viewed during the Planning Officer's site visit (undertaken on 12/12/2023) and to be more in keeping with the traditional character and appearance of the appeal building.

8.0 Existing conservatory extensions

- 8.1 The Appellant argues that the proposal would add a relatively small amount of glass, add very little to the cumulative amount of glazing at the rear of the appeal site and questions why only a certain amount of glass would be acceptable.
- 8.2 The Appellant states that glass conforms with the area's character when viewing it as a whole rather than separating it into different floor levels. In particular, the Appellant considers the presence and close proximity of existing glass extensions at ground floor level below to mean that the character of the area would be preserved.

9.0 Response to ground of appeal 3

- 9.1 It is firstly important to emphasise that it is the Council's view that the introduction of approximately 10.4 metres of glass in the form of a balustrade stretching across

almost the full-width of the rear elevation and between approximately 1.5 and 3.2 metres in depth at the sides would be inappropriate at 1st floor level (for the reasons as stated in Paragraphs 3.5 – 3.24 of the Officer's Delegated Report).

- 9.2 The Council strongly disagrees with the Appellant's claim that the proposal would only add a relatively small amount of glass. The proposal would result in a considerable expanse of horizontally aligned glass installed in an elevated and widely visible position at the rear, and this would appear disproportionately large and out-of-keeping with the existing traditional character and appearance of the appeal building and neighbouring buildings.
- 9.3 It is important to emphasise that this is the Council's position and that any subsequent consideration of the impact of the proposal in light of the presence of two existing conservatory extensions at garden level, and any cumulative effect that this might have when taken together, raises additional concern.
- 9.4 As such, notwithstanding that the proposal is considered to be unacceptable, by virtue of its detailed design, material, scale and location, it is also considered that the adverse impact of the proposal would be further accentuated when additionally taking into account the presence of two conservatory extensions in situ at garden level.
- 9.5 The existing larger conservatory is fully glazed (shown on the submitted drawings to measure approximately 4 metres high x 6.6 metres wide) and smaller conservatory is substantially glazed (approximately 3 metres high x 2.5 metres wide). When considering the proposal alongside these two conservatories, the introduction of a substantial amount of additional glass material immediately above at 1st floor level as proposed, where it would be more visible, would result in an excessive, cumulative amount of glazing on the rear elevation of the host building (see Images 1 and 2 below – with an approximation of the existing smaller glazed conservatory shown as 'A' in red included for completeness and more accurate appreciation of the degree of glass material).



Images 1 & 2 – showing proposed rear elevation with glass balustrade and conservatory extensions (extract)*

**existing smaller conservatory (shown as 'A' in red) added by Council*

- 9.6 When taken together, therefore, the proposal would result in an excessive and harmful degree of visual clutter, detrimental to the traditional character and appearance of the appeal building and neighbouring buildings along the rear terrace, and to the wider conservation area, particularly by virtue of the design and predominance of glass material for the proposed balustrade in a widely visible, upper floor position.

10.0 Planning precedent and policies

- 10.1 The Appellant concludes that the absence of any recently refused applications for glass balustrades (or approvals) in the locality suggests that homeowners have not applied for balustrades of this material and that this should not mean that glass balustrades are unacceptable.
- 10.2 The Appellant acknowledges that neighbouring glass balustrade examples predate the Council policies, but states that these examples should nevertheless form part of the area's character, especially where planning permission was granted, albeit historically. Additionally, the Appellant argues that planning policies relating to character of an area haven't changed dramatically over the years, so the proposed glass balustrades should be considered acceptable today.
- 10.3 The Appellant refers generally in support of the appeal proposal to glass extensions and balustrades within the immediate vicinity, and highlights no. 95 Canfield Gardens

as a specific example where the use of glass in the conservation area was deemed to be acceptable.

11.0 Response to ground of appeal 4

- 11.1 The Appellant refers to the absence of any recently refused applications for glass balustrades (or approvals) in the locality and suggests that homeowners have not applied for glass balustrades.
- 11.2 This is not the case and does not take into account other reasons why public records showing the formal determination of glass balustrades might appear limited or absent. These reasons include (a) the pre-planning process where applicants might be advised against the use of glass material prior to the submission of a planning application and then subsequently amend the proposal; (b) proposals which are revised during the course of a planning application from using glass to some other more appropriate material prior to determination; and (c) applications which are withdrawn by the applicant prior to determination rather than receive a likely refusal.
- 11.3 For instance, a relevant recent example of an application which was withdrawn by an applicant in 2021 prior to formal determination (following advice given by the Council as to the unsuitability of a proposed glass balustrade) was at a property located in close proximity to the appeal site (namely, Flat 4, 76 Canfield Gardens – ref. 2020/5578/P). The proposal was for the *'Replacement of timber balustrade section and planting to rear roof terrace at 1st floor level with glass balustrade on all sides'*. This example is noted as proposing similar alterations at 1st floor level to those refused at the appeal site and which are the subject of this appeal. The application is listed in the 'Relevant history' section of the Officer's Delegated Report, pages 2-4).
- 11.4 In both cases (the appeal proposal and the withdrawn application ref. 2020/5578/P), a proposed glass balustrade at 1st floor roof level was considered would result in an incongruous and unsympathetic addition, by virtue of its detailed design, material, scale and location. As such, the examples demonstrate a consistency in approach and application of policies and guidance by the Council in regard to proposals which are similar.
- 11.5 Before turning to the examples of the use of glass referred to by the Appellant in the Statement of Case, the Council considers it important to bring to the Inspector's attention at the outset that, while there are numerous examples of rear roof terraces at upper floor levels on properties in the immediate locality of the application site, the majority of those which have some form of balustrade or railing to enclose these areas are noted as being made from metal and/or natural timber materials.
- 11.6 Additionally, it is noted that all recent planning permissions granted for balustrades or screening around rear balconies or terraces at upper floor levels have been

approved for metal and/or natural timber materials only – this being in accordance with current Council policies and guidance as stated above (see also ‘Relevant history’ section of the Officer’s Delegated Report, pages 2-4).

- 11.7 The Council also emphasises that all examples referred to in the Appellant’s Statement of Case (and other relevant examples) have been taken into consideration during the assessment of the application. In this regard the Planning Inspector’s attention is brought to the ‘Relevant History’ section of the Officer’s Delegated Report (pages 2-4) which lists all relevant planning history taken into consideration. The Inspector is also referred to Paragraphs 3.22 – 3.24 of the same Report which sets out consideration of a number of these examples.
- 11.8 Turning to the specific, recent example referred to by the Appellant for a glass balustrade approved in 2019 (namely, at no. 95 Canfield Gardens – ref. 2018/5612/P), it is noted that this is located at garden level around a patio area (rather than to an upper floor level terrace). It is also not located within the rear environment of the appeal site, but on the opposite side of the street from the front of the appeal site. As such, the example is not considered to be comparable as it is likely to have different impacts and considerations to the appeal proposal, especially as garden or ground floor level alterations in general are often less visible and have less impact on the character of a building than upper floor level alterations, depending on their particular site context.
- 11.9 There are three historic examples of glass balustrades in situ along the rear terrace in Canfield Gardens (at nos. 44, 76 and 78). These were all granted planning permission between 2005 and 2010. Importantly, all three permissions significantly predate current policies and guidance, as well as, pre-dating the adoption of the South Hampstead Conservation Area (adopted February 2011). Contrary to the Appellant’s view in regard to the relevance of newer policies and guidance, it is arguable whether any of these examples would receive planning permission under current policies. Furthermore, while the examples are located within the locality and have been taken into consideration, they are isolated examples which are not considered by the Council to form the established character of the area, nor set any precedent for the appeal proposal.
- 11.10 More specifically, of these examples, no. 78 is noted as being more of a Juliette style glazed screen, sitting immediately in front of glazed doors and small in size, so having a much less pronounced visual impact than the appeal proposal and not considered to be similar. One of the other examples at no. 76 is noted as having only the uppermost part of a glass balustrade being visible given the existing height of a tall brick parapet which serves to mask the majority of the balustrade from view. As such, it is considered to be an isolated, historic example which is sufficiently different in context not to be directly comparable or set a precedent for the appeal proposal.
- 11.11 In summary, the Council has been mindful throughout the course of the appeal application to take into consideration all of the examples (and other relevant

examples) suggested by the Appellant as setting a precedent for the appeal proposal during the assessment process. However, none of the examples are considered by the Council to be sufficiently similar or comparable to set any precedent for the appeal proposal. Therefore, while due attention has been paid to past changes, the appeal proposal has also been assessed in light of its existing site context, based on the individual merit of the proposal, and having due regard to all relevant current policies and guidance, planning and appeal history.

12.0 Amendments and engagement

- 12.1 The Appellant claims to have received a disappointing degree of engagement on the part of the Council, particularly in regard to providing a suggested revision, and refers to Appendix 3 in order to demonstrate this point.

13.0 Response to ground of appeal 5

- 13.1 The Council strongly disagrees with the Appellant in regard to the alleged degree of engagement, the opportunity provided to alter the proposals and the general impression provided by the selective email trail as shown in Appendix 3 attached to the Appellant's Statement of Case.
- 13.2 The Appellant was initially contacted by the Council via email dated 14/11/2023 confirming that the application was registered, but also raising initial concern with the proposal for similar reasons to those outlined above in this Statement and given the proximity of the balustrade's position to the roof edges. The Appellant was invited by the Council to review the proposals in light of these concerns. In response, the Appellant forwarded an email dated 23/11/2023 and took the opportunity to submit revised drawings that were amended so as to set-back the proposed glass balustrade from the roof edges.
- 13.3 There was then an exchange of emails over the next few weeks between the Appellant and the Council in order to arrange a site visit to the appeal site, particularly as the Appellant held a different view to the Council in regard to the proposal and it was important to view the site context. Subsequently, the Planning Officer visited the appeal site on 12/12/2023.
- 13.4 Following a review of the revised application submission by the Planning Officer and a Council Design officer, an email was sent by the Council to the Appellant on 22/12/2023 confirming the position in regard to the proposals; namely, that there were strong concerns as outlined above in this Statement. It was suggested again to the Appellant that either a timber replacement balustrade or a simple black metal railing might be more appropriate than a glass balustrade. In response, the Appellant confirmed by email dated 05/01/2024, *'If you could issue the decision based on the current plans that would be great. I'll take my chances at appeal.'*

- 13.5 The Council therefore proceeded on that basis as the Appellant's position was clear and no further revisions were forthcoming.
- 13.6 Two weeks after this exchange, the Appellant forwarded an email dated 19/01/2024 suggesting an amendment to the balustrade using a mixture of wood and glass with an example photograph to show this (as shown in Appendix 3 attached to the Appellant's Statement of Case). Based on the example photograph, it was the Council's view that given the predominance of glass material and the limited nature of the change, the suggested amendment would not overcome Council concerns, and as such, it did not provide any basis for further consideration.
- 13.7 It is considered by the Council, therefore, that in accordance with Paragraph 38 of the National Planning Policy Framework (NPPF), the Appellant has been given adequate opportunity to consider and respond to concerns expressed by the Council over a reasonable period of time and after a sufficient level of engagement between both parties throughout the course of the application. Indeed, the Appellant took the opportunity to revise the original proposals as part of this period of correspondence.
- 13.8 Naturally, the Council appreciates that an applicant will be disappointed under circumstances where the Council holds a different opinion as to the acceptability of a proposal; however, it is not Council practice to delay the processing of an application when it's clear that acceptable amendments are unlikely to be forthcoming.
- 13.9 Therefore, given that the suggested amendment would unlikely have overcome the significant concerns raised in regard to the proposal, it was not unreasonable for the Council to determine the application on the basis of the application submission as it stood at the time, based on the individual merit of the proposal, and having due regard to all relevant current policies and guidance, planning and appeal history.

14.0 Conclusion

- 14.1 Having regard to the entirety of the Council's submissions, including the content of this statement, the Inspector is respectfully requested to dismiss the appeal.
- 14.2 If any further clarification of the appeal submission is required, please do not hesitate to contact Tony Young on the above direct dial number or email address.

Yours sincerely,

Tony Young
Planning Officer - Planning Solutions Team
Supporting Communities Directorate
London Borough of Camden