



Facts to Support Ground A

Section 174(2)(a) of the Town and Country Planning Act says "that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged."

The enforcement notice seeks removal of timber fencing around the edge of the first-floor rear terrace.

On the 6th September 2023 Camden Council approved an application for "*Removal of existing timber privacy fence to first floor rear terrace and erection of replacement metal balustrades, in association with use of the flat roof as a terrace*" (LPA Ref: 2023/2874/P).

In determining the application it was accepted that the use of the terrace was lawful having been in established over four years ago. It has in fact been used for this purpose for over ten years and was set out like this when the property was purchased by the current owner in 2021 (See photographs from the property listing at **Appendix 1**). The owner was obliged to carry out works to the terrace as there were leaks through to the flat below (See details in email chain at **Appendix 2**). In order to carry out these works it was necessary to remove the timber fencing around the edge (See Photographs at **Appendix 3**). The roof was made good and a new timber slatted fence was put back in place (See Photographs at **Appendix 4**).

A year later a planning enforcement query was made regarding the replacement fencing. Officers determined the as-built timber balustrades to be materially different to what was previously there. It was therefore considered unauthorised and the decision was taken to enforce. As officers had advised that a lawful development certificate could not be sought due to the removal of the previous fencing, the defendant applied for planning permission to install an alternative metal balustrade. This was approved and the intention was to implement the proposal. However, it was noted that the neighbours objected to the proposal, preferring instead the timber slatted version (See comments at **Appendix 5**).

The owners sought quotes for the works to implement the planning permission, but these were considered prohibitively expensive at circa £15,000 for the works and scaffolding (See



quotes for works and scaffolding at **Appendix 6**). Given that the nearest neighbours below and to the left prefer the existing fencing, and that it relates to a well-established development and use, it is considered that planning permission ought to be granted were an application submitted. Unfortunately, the timings of receiving the quote did not allow for any further dialogue with the Council as the enforcement notice had already been issued. It should be noted that previous letters had been sent to Flat 3 not Flat 1, so the emailed formal notice arrived as a surprise with little time to respond.

The relevant policies in Camden's Local Plan to determine this application would be Policy D1 (Design), D2 (Heritage) and A1 managing the impact of development. CPG1 (Design) provides further guidance, stating that roof alterations are likely to be acceptable where alterations are architecturally sympathetic to the age and character of the building and retain the overall integrity of the roof form.

In determining the application for the iron railings, officers commented that they were considered to be more acceptable in design terms but noting that they would provide less privacy. As such a condition was added to ensure privacy screens. This would of course have the effect of creating a solid barrier and may well look very similar to the timber slatted fence.

Policy D1 of the Local Plan seeks to secure high quality design in development and Policy D2 seeks to preserve and, where appropriate, enhance Camden's rich and diverse heritage assets, including conservation areas. The replacement fence and decking is considered to be an enhancement to the site that is appropriate to the conservation area. Timber is a traditional material and is well established at the site. Whilst it is noted that officers preferred the design of the metal railings, this is clearly at the expense of meeting Policy A1 which seeks to protect the quality of life of occupiers and neighbours.

Taking all of these policies into consideration and with the history of the site and comments of neighbours as a material consideration, it is considered that planning permission ought to have been granted.