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| <b>Delegated Report</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                            | <b>Analysis sheet</b>                  |                                     | <b>Expiry Date:</b>              | <b>29/07/2013</b> |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                            | N/A                                    |                                     | <b>Consultation Expiry Date:</b> | <b>18/07/2013</b> |
| <b>Officer</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                            |                                        | <b>Application Number(s)</b>        |                                  |                   |
| Rachel Miller                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                            |                                        | 2013/2891/P                         |                                  |                   |
| <b>Application Address</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                            |                                        | <b>Drawing Numbers</b>              |                                  |                   |
| 29 & 30 Lyndhurst Road<br>London<br>NW3 5PB                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                            |                                        | Please see decision notice          |                                  |                   |
| <b>PO 3/4</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>Area Team Signature</b> | <b>C&amp;UD</b>                        | <b>Authorised Officer Signature</b> |                                  |                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                            |                                        |                                     |                                  |                   |
| <b>Proposal(s)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                            |                                        |                                     |                                  |                   |
| Variation of condition 6 (development built in accordance with approved plans) as a minor material amendments to planning permission ref 2011/0174/P dated 09/03/2011 (the remodelling of 2 semi-detached properties with extensions to front, rear & basement), namely to change the rear garden landscaping by introducing a retaining wall and basement level courtyard terraces, increase in size of upper rear dormer windows, alterations to fenestrations and doors to front and rear façades and installation of new binstores and gates at the front.(Retrospective) |                            |                                        |                                     |                                  |                   |
| <b>Recommendation(s):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                            | Refuse and issue an enforcement notice |                                     |                                  |                   |
| <b>Application Type:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                            | Variation of Condition                 |                                     |                                  |                   |

|                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |    |                  |    |                   |    |
|-------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|------------------|----|-------------------|----|
| Conditions or Reasons for Refusal:                                | Refer to Draft Decision Notice                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |    |                  |    |                   |    |
| Informatives:                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |    |                  |    |                   |    |
| Consultations                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |    |                  |    |                   |    |
| Adjoining Occupiers:                                              | No. notified                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 44 | No. of responses | 02 | No. of objections | 02 |
|                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |    | No. electronic   | 00 |                   |    |
| Summary of consultation responses:                                | <p>Press notice displayed from 27/06/2013 until 18/07/2013<br/>Site notice displayed from 19/06/2013 until 10/07/2013</p> <p>Two letters received with the following objections:</p> <ul style="list-style-type: none"><li>• The top three floors and dormer windows cause overlooking to properties to the rear</li><li>• The current planning application does not address the issue of the lost trees</li><li>• Object to the issues of the large poplar tree that fell last year which has caused overlooking</li><li>• The extensive work in the garden and position of the retaining wall may have led to the demise of the tree which has damaged the character of the conservation area</li><li>• Request that trees are reinstated on the rear boundary line as soon as possible. These should be of minimum height of 8-10metres.</li></ul> |    |                  |    |                   |    |
| CAAC/Local groups*<br>comments:<br><small>*Please Specify</small> | <p>Fitzjohns/Netherhall CAAC object to the application for the following reasons:</p> <p>“These buildings are Arts and Crafts architecture and have appropriate fenestration. What is proposed is not Arts and Crafts and is completely incongruous with the architecture of the buildings.<br/>We also object to the take-up of front gardens by lightwell extensions which are over-sized, particularly in view of the already great take-up of garden space at the front and the rear.<br/>We object to the expansion of the two tiers of dormers at the rear.<br/>We can not precisely define the requested extension of the proposed rear basement terraces but we object to any extension of elements taking up scarce garden space.”</p>                                                                                                       |    |                  |    |                   |    |

## Site Description

The site is located on the south side of Lyndhurst Road close to the junction with Akenside Road. The site is currently under redevelopment however previously comprised of a pair of semi-detached three storey properties with lower ground floor level in use as 8 residential flats.

The buildings are not listed but are located within the Fitzjohns/Netherhall Conservation Area. The buildings are noted as creating a positive contribution to the character and appearance of the conservation area. The street is characterised by large, semi-detached dwellings, mostly in brick with prominent gable details.

## Relevant History

2011/0174/P Remodelling of 2 semi-detached properties with extensions and alterations, including erection of a front and rear roof extension with four front velux windows and four rear dormer windows to create a new attic floor; excavation to create a new basement floor; demolition of rear facade and erection of a rear extension at lower ground, upper ground, first floor and 2<sup>nd</sup> floor levels; creation of external terraces with balustrades at lower ground and raised ground floors; replacement of existing fenestration; creation of 2 front lightwells and alterations to existing lightwell; alterations to front garden including removal of driveway and internal garage and replacement of front boundary treatment; all in association with rearrangement of existing 8 self-contained flats (Class C3).

**Approved** on 09/03/2011.

2012/3461/P Details required by condition 3 (Hard and Soft landscaping and means of enclosure), 5 (trees to be retained on or adjoining site), 7(drainage plans) of planning permission 2011/0174/P decided 12/01/2011 for: Remodelling of 2 semi-detached properties with extensions and alterations, including erection of a front and rear roof extension with four front velux windows and four rear dormer windows to create a new attic floor; excavation to create a new basement floor. **Refused** on 22/08/2012 for the following reasons:

Condition 3

*The proposed frontage hard surfacing, by reason of the amount, material and colour, would be detrimental to the character and appearance of the host properties, streetscene and the wider Fitzjohns/Netherhall Conservation Area, contrary to London Borough of Camden Local Development Framework Core Strategy 2010 policies CS5 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserve heritage) and the London Borough of Camden Local Development Framework Development 2010 Policies with particular regard to policies DP24 (Securing high quality design) and DP25 (Conserving Camden's Heritage)*

Condition 5

*Insufficient information has been submitted with regard to the tree protection measures to demonstrate that the development will not have an adverse impact on the existing trees and would maintain and preserve the character and appearance of the conservation area contrary to policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Core Strategy 2010 and policy DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework 2010.*

Condition 7

*Insufficient information has been submitted with regard to the surface water tank. The Council is therefore unable to determine that the works proposed would not have an adverse impact on retained trees and thus the character and appearance of the building and the wider conservation area. The application is therefore contrary to policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Core Strategy 2010 and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework 2010.*

2012/4938/P Details required by conditions 3 (Hard and Soft landscaping and means of enclosure), 5 (trees to be retained on or adjoining site) and 7 (drainage plans) of planning permission granted on

09/03/2011 (Ref: 2011/0174/P) for: Remodelling of 2 semi-detached properties with extensions and alterations, including erection of a front and rear roof extension with four front velux windows and four rear dormer windows to create a new attic floor; excavation to create a new basement floor. **Refused** on 09/11/2012 for the following reasons:

1) *The proposed details shown on drawing LS-1000 Rev B, by reason of inaccurate and inconsistent plans in comparison with plans approved as part of planning permission granted on 09/03/2011 (Ref. 2011/0174/P), would be detrimental to the character and appearance of the buildings and wider Fitzjohns / Netherhall Conservation Area, existing trees and fails to demonstrate that the proposals shown would not cause harm to the built and natural environment and local amenity and would not result in flooding or ground instability, contrary to policies CS5 (Managing the impact of growth and development), CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP23 (Water), DP24 (Securing high quality design), DP25 (Conserving Camden's heritage) and DP27 (Basements and lightwells) of the London Borough of Camden Local Development Framework Development Policies.*

2) *Insufficient information has been submitted with regard to the surface water tank. The Council is therefore unable to determine that the works proposed would not have an adverse impact on retained trees and thus the character and appearance of the building and the wider Fitzjohns / Netherhall Conservation Area. The application is therefore contrary to policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.*

2012/5904/P Variation of condition 6 (development built in accordance with approved plans) as a minor material amendment to planning permission granted as Ref: 2011/0174/P dated 09/03/2011 (the redesign of 2 semi-detached properties with extensions to front, rear & basement) namely to replace existing landscaping plan and include a retaining wall and tiled courtyard area to the rear garden accessible by the basement units. **Refused** on 04/01/2013 for the following reason:

*Insufficient information has been submitted with regard to the rear basement courtyards and retaining wall and the front bin stores and gates to demonstrate that the development will not have an adverse impact on the amenities of adjoining properties, on the appearance of the building and on the character and appearance of the conservation area. It is therefore contrary to policies CS5 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design), DP25 (Conserving Camden's heritage) and DP26 (Managing the impact of development) of the London Borough of Camden Local Development Framework Development Policies.*

2012/5956/T - DD - REAR GARDEN: 1 x Poplar - Remove (clear out) - DD. No objection to Emergency Works 22/11/2012

2013/0459/P - Variation of condition 6 (development built in accordance with approved plans) as a minor material amendment to planning permission ref 2011/0174/P dated 09/03/2011 (the remodelling of 2 semi-detached properties with extensions to front, rear & basement), namely to change the front and rear garden landscaping by introducing basement level courtyard terraces and retaining wall at the rear and new binstores and gates at the front. Withdrawn on 19/03/2013

#### Enforcement

EN12/0993- Works not done in accordance with permission 2011/0174/P

## Relevant policies

### **LDF Core Strategy and Development Policies**

#### Core Strategy

CS1 (Distribution of growth)

CS5 (Managing the impact of growth and development)

CS13 (Tackling climate change)

CS14 (Promoting high quality places and conserving our heritage)

CS15 (Projecting and improving our parks and open spaces and encouraging biodiversity)

#### Development Policies

DP23 (water)

DP24 (Securing high quality design)

DP25 (Conserving Camden's heritage)

DP26 (Managing the impact of development on occupiers and neighbours)

DP27 (Basements and lightwells)

### **Camden Planning Guidance 2011**

CPG1 – Chapters 1 – 5

**Fitzjohns/Netherhall Conservation Area Statement 2001** – pages 1-10, 22-24, 30-31, 36-41

### **London Plan 2011**

### **NPPF 2012**

## Assessment

### Background

As noted in the history section above, the Council granted planning permission on 09/03/2011 (ref 2011/0174/P) for:

*Remodelling of 2 semi-detached properties with extensions and alterations, including erection of a front and rear roof extension with four front velux windows and four rear dormer windows to create a new attic floor; excavation to create a new basement floor; demolition of rear facade and erection of a rear extension at lower ground, upper ground, first floor and 2<sup>nd</sup> floor levels; creation of external terraces with balustrades at lower ground and raised ground floors; replacement of existing fenestration; creation of 2 front lightwells and alterations to existing lightwell; alterations to front garden including removal of driveway and internal garage and replacement of front boundary treatment; all in association with rearrangement of existing 8 self-contained flats (Class C3).*

Condition 6 of permission 2011/0174/P sought for the development to be carried out in accordance with the approved plans.

The external works to the building are largely finished. This planning application follows an enforcement complaint made in 2012 that the development had not been built in accordance with the approved drawings.

### Proposal

The Applicant seeks approval for retrospective amendments to the approved scheme by varying condition 6 (approved drawings). The main amendments are listed below:

- i) Changes to rear wall at garden level, insertion of new retaining wall and basement level courtyard terraces

- ii) Increasing the size and design of upper rear dormer windows
- iii) Altering the fenestration on the front and rear façades
- iv) Erection of new binstores and gates to the front elevation

This application is assessed in terms of:

- a) the design and the impact on the host building and conservation area,
- b) the amenity of surrounding occupiers and
- c) the impact on trees.

#### a) Design

Firstly it must be noted that since the original application was approved, the appointed architect has changed and as a consequence, the drawings vary in detail. The Applicant states that there were mistakes with the previously approved drawings. These include the concealment of the chimney on the rear roofslope and difference in levels in the rear garden.

The Council validated the application on 3<sup>rd</sup> June however during a site visit Officers noticed discrepancies and inaccuracies with the drawings. The architect was asked to submit accurate drawings which correctly reflect the unauthorised changes. These were received almost six weeks after the validation stage. Once the correct drawings were submitted the Council could make their decision on the application.

Camden's Local Development Framework seeks to promote high quality places and conserving Camden's heritage. Policy DP24 of the LDF requires all developments to consider the character and proportions of the existing building as well as the setting and context of neighbouring buildings. Policy DP25 of the LDF requires all alterations and extensions within designated conservation areas to preserve and enhance the character and appearance of the area. New developments are also required to comply with the design guidance in Camden Planning Guidance 1.

#### i) Rear wall at basement level, large retaining wall and basement courtyards

The Applicant has introduced a large retaining wall at rear basement level which creates separate paved amenity space for the flats at this level. The Applicant has stated that this was a necessity due to the approved drawings being incorrectly surveyed in terms of the garden levels which would have led to the land collapsing inwards without the erection of the wall. Around the retaining wall are railings which match the railings for the upper terraces. Whilst it is considered that the new retaining wall and basement courtyards do not necessarily enhance the appearance of the building, they are located at lower ground floor level with limited visibility from surrounding properties and therefore are considered to not cause sufficient harm to warrant refusing the application on this basis.

The previously approved drawing (1112/AP-20) showed the garden level to have a part curved rear wall at number 30 with gradual incline to the rear garden. The scheme was altered during construction and now has a squared off rear wall at number 30. The Council have no objections to the change in the design of the rear wall.

#### ii) Upper rear dormer windows

CPG1 advocates that roof extensions should be of appropriate scale and be architecturally sympathetic to the age and character of the host building and retain the overall integrity of the roof form. It goes on to state that "they should generally be aligned with windows on the lower floors and

be of a size that is clearly subordinate to the windows below. Materials should complement the main building”.

The Fitzjohns/Netherhall Conservation Area Statement (page 36) specifies that “Insensitive alterations can harm the character of the roofscape with poor materials, intrusive dormers, inappropriate windows”. Dormer windows should be sensitively designed in relation to the building and other adjacent roofs.

The approved upper rear dormer windows were shown on the drawings and in the Design and Access Statement to replicate the existing dormer windows with the insertion of two small dormer windows at number 29 (as shown on approved drawing number 1112/AP-27). The four upper dormer windows installed do not represent what was approved as they are larger in size and bulk. They do not align or appear sufficiently subordinate to the windows below and harm the appearance of the building. The upper rear dormers are clearly visible from properties to the rear, on Wedderburn Road. The dormers do not comply with CPG1 and are contrary to policies DP24 and DP25 of the LDF.

The approved drawings showed the chimney was to be kept on the rear roofslope, however this has been concealed due to the roof design. The Applicant states that the approved drawings were incorrectly drawn and this was not possible. It is considered that the chimney would have broken up the roof and reduced the visual impact of the upper dormers.

### iii) Fenestration

The Fitzjohns/Netherhall Conservation Area states that “Original detailing such as...window pediments.. timber framed sash windows ... where retained add to the visual interest of properties. Where details have been removed in the past, replacement with suitable copies will be encouraged.”

The Applicant has installed windows on the front and rear facades that are tilt and turn timber windows with glazing bars on the top halves of the window only. This is not what was approved. The approved drawing (1112/WD-30) showed fenestration details indicating that sash windows would be installed with glazing bars to match the existing. The approved Design and Access Statement stated: “fenestration details will be modelled on original windows where they survive.”

It is considered that the installed windows on the front and rear facades and the doors on the rear facades do not replicate the existing fenestration. They detract from the appearance of the host building, and do not preserve and enhance the appearance of the Fitzjohns/Netherhall conservation area. Therefore are contrary to policies DP24 and DP25 of the LDF.

### iv) New bin store and gates to front elevation

The previous approval did not show any details of the bin store. The proposed two bin stores are shown on drawing number 1799A with access from the street and located behind a hedges. As there are 8 self-contained flats within the building it is considered that the location and size of the bin store are appropriate and they would be partially hidden behind a hedge therefore would not detract from the appearance of the building.

Along the front boundary, the Applicant proposes to install a hedge with railings, gates and brick piers gates which would be approximately 1metre high. These are considered appropriate for the building.

### Amenity

Concerns have been raised from surrounding properties regarding a loss of privacy from the new dormer windows to properties at the rear following the loss of a rear boundary tree. The loss of the tree is covered below. The rear façade of the application property is more than the 18metre distance between habitable rooms recommended by Camden Planning Guidance 6. The overlooking between

the application property and properties on Wedderburn Road is no more adverse than the existing overlooking from the upper floor windows and adjacent dormer windows. Therefore it is considered that there is no conflict with policy DP26 or Camden Planning Guidance 6.

### Trees

The concerns of neighbouring properties to the rear of the site have been considered and the Council's Tree Officers have been consulted. A Notification to Carry Out Emergency works to Protected Trees was submitted to the Council in November 2012 for works to the Poplar tree which was located on the boundary between 29 and 30 Lyndhurst Road and . The Council had no objections to the emergency works however informative 3 states that:

"Where the removal of dead/dangerous tree(s) has taken place the owner has a duty under Section 213 of the Town and Country Planning Act 1990 (as amended) to plant a replacement. In this case the Council requires that a Small Leaf Lime be planted as a heavy standard with a girth size of 18-20cms, along the rear boundary, as close to where the Poplar stood as possible. The ground should be prepared to the standards set out in BS4043:1989. The tree should be suitably staked and tied. The replacement should be planted by the end of February 2013. "

This replacement in accordance with informative 3 has not been complied with and no replacement tree was planted before the end of February 2013. As a result, the Council will be taking enforcement action under Section 213.

### **Recommendation:**

#### **a) Refuse Planning Permission**

#### **b) Authorise enforcement action**

That the Head of Legal Services be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended 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 178 in order to secure the cessation of the breach of planning control.

### **The Notice shall allege the following breach of planning control:**

1. The unauthorised installation of windows and doors to the front and rear and roof elevations
2. The erection of 4 upper level dormers on the rear roof slope

### **The Notice shall require within a period of 6 calendar months of the Notice taking effect:**

- 1) Remove the windows and doors and replace with windows and doors to match the existing see appendix A for photo;
- 2) Implement the planning permission 2011/0174/P concerning the window and door fenestration
- 3) Remove of the upper dormer windows or;
- 4) Implement the planning permission 2011/0174/P concerning the upper level dormers
- 5) Make good any damage to the front and rear elevation and roof caused by the removal and replacement of windows, doors and dormers



## **REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE.**

The upper four rear dormer windows, by reason of their size and detailed design are an unduly prominent and discordant feature on the building and fail to preserve or enhance the character and appearance of the existing building and Fitzjohns/Netherhall Conservation Area. This is contrary to policies CS5 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and to policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.

The windows and doors on the front and rear facades, by reason of their detailed design, detract from the appearance of the existing building and fail to preserve or enhance the character and appearance of the Fitzjohns/Netherhall Conservation Area. This is contrary to policies CS5 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and to policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.