

Delegated Report (Members Briefing)		Analysis sheet		Expiry Date:	24/09/2012
		N/A		Consultation Expiry Date:	31/08/2012
Officer			Application Number(s)		
Nicola Tulley			2012/2332/P		
Application Address			Drawing Numbers		
1 Gondar Gardens London NW6 1EW			See draft decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Variation of condition 5 (screening) of planning permission dated 09/12/09 (Ref: 2007/4353/P) for the erection of 3 x 2-storey dwelling-houses (all 2 x bedrooms), and 1 x 2 storey, plus basement level, 3-bedroom dwelling-house, namely replacement of screening to window with obscure glass with restricted opening to window.					
Recommendation(s):		Approve variation of condition 5 and warning of enforcement action			
Application Type:		Variation or Removal of Condition(s)			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	11	No. of responses	01	No. of objections	01
			No. electronic	00		
Summary of consultation responses:	<p>A site notice was displayed from 10/08/2012 to 31/08/2012.</p> <p>One letter of objection has been received from 8 Gondar Mansions, the following issues have been raised:</p> <ul style="list-style-type: none"> • The window fitted is a type that can open 180 degrees; builders working at the property were able to look down straight into a lounge. • The proximity of the main wall of the new house to number 8 is very close and any new window on this elevation reduces privacy. • It is understood that a device has been fitted to reduce the opening but the original solution proposed should be kept. <p>Officer's response: see assessment below.</p>					
CAAC/Local groups* comments: <small>*Please Specify</small>	No local groups have provided comment to date.					

Site Description

The site is located on the eastern side of Gondar Gardens, close to its southern end and the junction with Mill Lane, on a south facing slope, opposite the end cul-de-sac of Hillfield Road. The site forms the rear of the plots of houses facing onto Sarre Road, and development on this side of the road is traditionally single storey garages and ancillary structures.

The site is not within a designated area, nor does it relate to a listed building.

Relevant History

Planning history

Approval of details, reference 2010/0193/P, was granted for: Details pursuant to Conditions 2 (details of windows, doors and gates), 3 (Sample panel of materials), 5 (details of screen), 6 (details of soft and hard landscaping), 8 (details of cycle storage), and 9 (details of waste storage) of permission dated 09/12/2009 (ref: 2007/4353/P) for the erection of 3x 2-storey dwellinghouses (all 2x bedrooms), and 1x 2 storey, plus basement level, 3-bedroom dwellinghouse; following the demolition of existing part 1, part 2 storey single dwellinghouse and adjoining single storey 3 bay garage.

Full planning permission, reference 2007/4353/P, was granted subject to a S106 for: The erection of 3x 2-storey dwellinghouses (all 2x bedrooms), and 1x 2 storey, plus basement level, 3-bedroom dwellinghouse; following the demolition of existing part 1, part 2 storey single dwellinghouse and adjoining single storey 3 bay garage.

Full planning application, reference 2007/1331/P, withdrawn: Demolition of existing dwelling house and adjoining 3 garages and erection of a part 2, part 3 storey block of 7 flats (comprising 1x3 bedroom, 3x2 bedroom and 3x1 bedroom units) with sloping green roofs, plus associated amenity space and cycle and refuse storage at rear.

Enforcement history

EN11/0968: Window built looks in to flat. Planning ref 2007/4353/P. (no notice)

EN09/0114: Work started before S106 has been signed. (no notice)

EN09/0034: House has been demolished but no conditions have been discharged. (no notice)

Relevant policies

The London Plan: Spatial Development Strategy for Greater London: 2011

LDF Core Strategy and Development Policies 2010

Core Policies

CS5 Managing the impact of growth and development

CS14 Promoting high quality places and conserving our heritage

Development Policies

DP24 Securing high quality design

DP26 Managing the impact of development on occupiers and neighbours

Camden Planning Guidance 2011

CPG1 Design

CPG6 Amenity

Assessment

Proposal & background

Full planning permission, reference 2007/4353/P, was granted on 9th September 2009 for *“The erection of 3x 2-storey dwellinghouses (all 2x bedrooms), and 1x 2 storey, plus basement level, 3-bedroom dwellinghouse; following the demolition of existing part 1, part 2 storey single dwellinghouse and adjoining single storey 3 bay garage”* subject to S106 legal agreement and planning conditions.

The following conditions were required to be discharged: Condition 2 (detailed drawings); Condition 3 (A sample panel of facing brickwork); Condition 5 (A screen with a min height of 1.8m); Condition 6 (Landscaping); Condition 8 (Cycle storage); Condition 9 (Waste storage).

All conditions requiring submission of details have been discharged.

The applicant has proposed to vary Condition 5 of planning permission reference 2007/4353/P:

“A screen with a minimum height of 1.8 metres above floor level, details of which shall have been submitted to and approved by the Council, shall be provided to the first floor window on the southern elevation of Dwelling 1 and the first floor on the northern elevation of Dwelling 4, prior to the first occupation of the dwellinghouses, and permanently retained and maintained as such thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policies S1, S2 and SD6 of the London Borough of Camden Replacement Unitary Development Plan 2006.”

Condition 5 Screening

The officer's committee report, 2007/4353/P, assessed the potential impacts of the buildings upon the neighbouring residential amenities of: Numbers 2, 4 & 6 Sarre Road; Gondar Mansions; and 3 Gondar Gardens. In relation to issues of overlooking the officer's committee report noted the following:

“Windows on the rear elevation at first floor level will have obscure glazing in order to restrict views to the rear, and windows on the side elevations of the dwellings on either end of the development (Dwellings 1 and 4) are clad with timber slats which will also restrict views. Dwellings are provided with roof lights; however these serve a double height space and are not considered to raise issues of overlooking into the adjoining properties. Therefore the scheme is not considered to raise issues of overlooking.

A condition will be placed on the permission requiring the retention of the obscure glazing to the windows on the rear elevation, that they are fixed shut to a height of 1.8m above floor level, and the submission of details for the timber slats on the side elevations of Dwellings 1 and 4 facing the adjoining properties.”

Condition 5 of planning permission reference 2007/4353/P had been discharged under Approval of details application 2010/0193/P. The officer's delegated report noted:

“The 1st floor window on the southern elevation of dwelling 1 will have a solid timber opening panel, that will be restricted so it opens to a maximum of 100mm. The applicant has confirmed by email that the first floor window on the northern elevation of dwelling 4 will have the same window installed. This will therefore ensure that views from these openings will not have a detrimental impact on the privacy of neighbouring property and are therefore considered to satisfy the requirements of condition 5.”

The applicant has proposed to vary these details by replacing the timber opening panel with obscure glazing. The details contained in the application form requests that the word ‘screen’ to be replaced with ‘restricted opening obscure glazed window’.

The objector has requested that a bar is fixed upon the external face of the window to restrict opening, as per the screen on the original permission. To clarify, an external bar had not been requested by the original permission. Condition 5 that had been discharged by planning reference 2010/0193/P agreed that a restricted opening timber panel would not have a detrimental impact upon neighbouring properties. As such the only alteration to this condition is the change in material from a timber panel to obscure glazing.

In consideration of residents concerns the approved variation of condition shall read:

“The restricted opening (opens a maximum 100mm) obscure glazed windows to the first floor window on the southern elevation of Dwelling 1 and the first floor window on the northern elevation of Dwelling 4, as shown on drawing number 08-03_Ld_EE_002A shall be permanently retained and maintained unless otherwise approved in writing by the Local Planning Authority.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

Site inspection

The side opening windows subject to this variation were obscure and were fitted with a restricted opening fixture which prevented opening in excess of 100mm (see photographs). The windows fitted to the rear of the building were obscurely glazed but were not fixed shut as required by condition 4 of planning permission reference 2007/4353/P:

“Windows on rear elevation at first floor level shall be provided with obscure glazing as shown the approved drawings, and fixed shut to a height of 1.8 metres above floor level, prior to the first occupation of the dwellinghouses, and permanently retained and maintained as such thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policies S1, S2 and SD6 of the London Borough of Camden Replacement Unitary Development Plan 2006.”

In view that windows have been installed in contravention of the planning permission the Council's

Enforcement team will be notified.

Conclusion

In consideration of the above the proposed variation is considered acceptable in relation to adopted policies: CS14; DP24 & DP26 of Camden's LDF. The conditions connected to the original permission will be attached but will remove previously discharged conditions and the time limit condition as works are near completion.

Recommendation

1. Approve variation of condition 5.
2. That the Head of Legal Services be instructed to issue a **Breach of Condition Notice** under Section 187A of the Town and Country Planning Act 1990 as amended with regard to condition 4 of planning permission granted by letter dated 9th September 2009 reference number **2007/4353/P** and officers be authorised in the event of non compliance to prosecute under that section.

The Notice shall allege the following breach of planning control:

Installation of opening windows of rear façade of development, planning reference 2007/4353/P.

The Notice shall require within a period of 3 months of the Notice taking effect:

- (a) That the obscure glazed windows to the rear elevation as approved by planning permission reference 2007/4353/P shall be fixed shut and permanently retained and maintained thereafter.

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

Condition 4 of planning permission reference 2007/4353/P was attached to ensure that views were restricted from the rear of the development under superseded policies S1, S2 and SD6 of the London Borough of Camden Replacement Unitary Development Plan 2006. Development Policy DP26 (Managing the impact of development on occupiers and neighbours) also seeks to ensure that the amenities of future owner/occupiers and neighbouring owner/occupiers are not harmed through undue overlooking.

The windows installed on the rear elevation of the development by reason that they are not fixed shut, harms the residential amenities of neighbouring owner/occupiers through lack of visual privacy and overlooking contrary to Development Policy DP26 (Managing the impact of development on occupiers and neighbours) of Camden's Local Development Framework 2010.

DISCLAIMER

Decision route to be decided by nominated members on Monday 17th September 2012.
For further information please click [here](#).