

Delegated Report (Members Briefing)		Analysis sheet		Expiry Date:	27/07/2012
		N/A / attached		Consultation Expiry Date:	01/06/12
Officer			Application Number(s)		
John Nicholls			2012/2893/P		
Application Address			Drawing Numbers		
4 Upper Terrace London NW3 6RH			See decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
The provision of an area of hard surface in the front garden of the existing house (Class C3)					
Recommendation(s):		Issue Certificate			
Application Type:		Certificate of Lawfulness (Proposed)			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	01	No. of objections	01
			No. Electronic	00		
Summary of consultation responses:	N/A					
CAAC/Local groups* comments: *Please Specify	<p>The Heath and Hampstead Society have objected which is summarised as follows:</p> <ul style="list-style-type: none"> Because the property is listed, the permitted development rights conferred by the GPDO 2008 do not apply in this case. (See paras 2.1 – 2.5 in the assessment below) If permitted development rights do apply, they were removed by the Article 4 Direction made for the Hampstead Conservation Area in 2010. Paragraph (d) of the Direction states that permitted development rights are removed for: <i>The provision within the curtilage at the front or side of a dwelling house of a hard surface for any purpose incidental to the enjoyment of the dwelling house as such, or the replacement in whole or part of such a surface, where any part of the hard surface would front a public highway or private street or other publically accessible space</i> (See paras 1.1 and 1.2 in the assessment below) The proposed change increases the area of the front garden used for vehicle manoeuvring and relocates the parking space close up to the elevation of the listed building and in view from the road. It also builds over an even larger part of the landscaped front garden, which some experts attribute to Gertrude Jekyll (1843-1932), one of the most important landscape architects of the period. For these reasons the Society would oppose an application for planning permission / listed building consent should one be made. (<i>Officer Comment: As the proposal is to assess whether the works are “permitted development” according to national legislation, it is a legal determination as to whether it complies with the wording of the Order and normal policy considerations that would apply to an application for planning permission are not relevant.</i>) 					
Site Description						
<p>The application dwelling forms a part of a short terrace of 4 houses, located on the north side of a cul-de-sac, at the west end of Upper Terrace. The terrace is grade II listed and dates from circa 1740. It has been variously altered in the past and now comprises 4 houses. No.4 (Formerly known as Upper Terrace Lodge) is the largest of the buildings in the terrace. The front boundary wall is listed by virtue of being attached to no.1Upper Terrace.</p> <p>No. 4 comprises 3 storey plus attic and basement and includes a large 2 storey rear addition with tiled mansard roof which dates from the early 20th Century. The property is within Hampstead Conservation Area.</p>						

Relevant History

2011/1300/L and 2011/1301/P – Alterations to boundary wall including widening of existing brick piers to match the width of the existing crossover and installation of new timber gates for the provision of one parking space, along with associated landscaping for single dwelling house (Class C3) – both granted 04/05/2011

Relevant policies

The Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008

Assessment

1.0 Article 4 Directions in the Hampstead Conservation Area

- 1.1 The Heath and Hampstead Society refers to an Article 4 Direction. Such directions are issued to take away permitted development rights for specified works to specified buildings. The only example relevant to 4 Upper terrace dates from 1978 and it relates solely to the painting of brickwork on the exterior of the building.
- 1.2 The Article 4 to which the Society refers was issued in 2010 and does relate to the provision of hard surfaces in the front gardens; however, it only relates No. 5 Upper Terrace and Grove End. No 4 Upper Terrace was not included.

2.0 Permitted development and listed buildings

- 2.1 The Heath and Hampstead Society also refer to the fact that the building is listed and submit that the hardstand cannot be PD as it is within a curtilage of a listed building.
- 2.2 The permitted development rights as they relate to minor operations including the provision of a hard surface work separately to the requirement for listed building consent.
- 2.3 Works, where they would affect the character of a listed building, would require listed building consent under the Planning (Listed Buildings and Conservation Areas) Act 1990. In this case the provision of a hardstanding is beyond the scope of listed building control.
- 2.4 Also, as a separate matter, the vehicular access and changes to the boundary wall have already been granted listed building consent and planning permission (see relevant history above).
- 2.5 This application is a legal determination as to whether the provision of a hardstand itself requires planning permission, which is assessed in greater detail below.

3.0 Class F assessment

- 3.1 The assessment is based on the requirements of the Class F of the Town and Country Planning (General Permitted Development) Order 1995 (as amended in 2008) and is set out as follows:
- 3.2 Development consisting of—
- (a) the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such; or
 - (b) the replacement in whole or in part of such a surface.
- is **permitted** if—
- (a) the hard surface is situated on land between a wall forming the principal elevation of the dwellinghouse and a highway, and
 - (b) the area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres, and be made of porous materials, or provision made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.

- 3.3 The proposal reduces the amount of hardstanding within the front garden area of the property from 35m² to 26m². The existing garden has an area of brick paviours that would be replaced by a path and hardstand area. In addition, the surface has a partly permeable element (Netpave 50 paving system with grass infill which is sufficient to meet the criteria required for surface run-off.
- 3.4 Consequently, the development including the path and Hardstand is permitted development and does not require planning permission.

4.0 Recommendation: Issue certificate

DISCLAIMER

Decision route to be decided by nominated members on Monday 23rd July 2012. For further information please click [here](#).