

Address:	22 Buckland Crescent London NW3 5DX		2
Enforcement Case Number:	EN08/0397	Matthew Durling	
Ward:	Frognal & Fitzjohns		
Alleged Breach: Erection of a roof extension and creation of a self-contained flat.			
RECOMMENDATION SUMMARY: 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 Officers be authorised in the event of non-compliance, to prosecute under Section 179 or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breaches of planning control.			

OFFICERS' REPORT

Reason for Referral to Committee:

This request to authorise enforcement action is being reported to the Development Control Committee as it relates to a breach of planning control that officer's are not authorised to commence prosecution proceedings against [Clause 2].

1. SITE

- 1.1. A substantial semi-detached Victorian villa located on the north western side of Buckland Crescent, comprising basement and three-storeys. The building is not listed; however it is located within the Belsize Conservation Area.
- 1.2. The building is in residential use, with the current layout comprising eight self-contained units, plus the additional unit within the roof extension. There is an ongoing investigation to establish whether this use is lawful.

2. ALLEGED BREACH

- 2.1. Without planning permission, the erection of a roof extension and creation of a self-contained flat at third floor level.

3. RELEVANT PLANNING HISTORY

- 3.1. 02/11/1999: Planning permission *refused* (ref. PW9902718) for change of use from 8 non-self contained bedsits on the first and second floors to two self contained flats and installation of two windows on the side elevation.

Reason for refusal 1: The proposed development involves the loss of existing residential accommodation of a type which the Council considers should be retained in this area.

Reason for refusal 2: The installation of the windows on the side elevation would result in overlooking of habitable rooms of the adjoining properties to the detriment of their amenities.

- 3.2. 22/01/1980: Planning permission *granted* (ref. G7/12/B/29546) for change of use, and works of conversion, of ground floor and basement to provide two maisonettes.

4. BREACH INVESTIGATION HISTORY

- 4.1. The Appeals and Enforcement team were notified of the alleged breach in May 2008. The site was visited by a Planning Site Inspector and the case reallocated to a Planning Enforcement Officer who gained access to the building and took photographs of the development. Planning Contravention Notices were issued to five parties in June 2006. One response was received by the freeholder of the building who claimed to be unaware of any changes at roof level. Aerial photographs dated 2006 and 2007 show that the roof extension is new, which is consistent with the verbal confirmation of an existing tenant of the building that works on the roof extension commenced in approximately November/December 2007.

5. CONSULTATIONS

- 5.1. No consultation required.

6. POLICIES

- 6.1. **London Borough of Camden Replacement Unitary Development Plan (2006)**

S1/S2 Sustainable development
SD1 Quality of life
SD6 Amenity for occupiers and neighbours
H1 New housing
B1 General design principles
B3 Alterations and extensions
B7 Conservation areas

- 6.2. **Camden Planning Guidance (2006)**

Chapter 10 Conservation areas
Chapter 29 Overlooking and privacy
Chapter 40 Residential development standards
Chapter 41 Roofs and terraces

- 6.3. **Belsize Conservation Area Statement (2003)**

BE26 Roof extensions

7. ASSESSMENT

- 7.1. The issues material to the assessment of this breach include the visual impact of the roof extension on the appearance of the building and the character and appearance of the conservation area, plus the standard of residential accommodation provided and its impact on neighbour amenity.
- 7.2. Aerial photographs of the building dated 2002 and 2006 show that the original roof form comprised four shallow pitch roofs with the side slopes forming a centre ridge running from front to rear. With the exception of the removal of chimneys, the roof had not been otherwise altered prior to the erection of the roof extension and is identified in the Belsize Conservation Area Statement as a building which made a positive contribution to the special character and appearance of the area.

Visual impact:

- 7.3. As built, the roof extension comprises a flat roofed structure located centrally on the original roof and projecting from each roof slope. With the exception of the projecting stair enclosure towards the rear on the east side of the building, the extension appears to be equidistant from the eaves on all elevations. There are two windows in the east elevation, two windows on the rear (north) elevation and three windows in the west elevation. The sides of the extension are clad with black/grey tiles similar to the roof and the windows comprise dark brown wood effect uPVC casements, which is an inappropriate material for use in conservation areas.
- 7.4. Notwithstanding the height of the building and the proximity to its neighbours, the roof extension is visible in short and medium distance views from the public realm and from neighbouring properties and gardens. The extension has fundamentally and inappropriately altered the form of the roof by replacing the original roof ridge with a substantially higher flat roof and by cutting through the hip lines on all elevations.
- 7.5. Shallow pitched roofs such as on this building are generally unsuitable for roof extensions of this nature. In terms of size and design the extension is disproportionately large and has a bulky appearance which is unsympathetic and fails to relate sensitively to the character or appearance of the building. By virtue of the increase in height the extension also projects into the roofline when viewed from the street and has an adverse affect on the skyline.
- 7.6. With the exception of a modest dormer window set into the side roof slope of 14 Buckland Crescent (granted planning permission in 1984), the surrounding buildings remain largely unimpaired by alterations or extensions at roof level. The unauthorised roof extension is contrary to policy and guidance and is considered to be harmful to the appearance

of the building and the wider character and appearance of the conservation area.

Standard of accommodation:

- 7.7. The unauthorised roof extension comprises a one-bedroom self-contained unit with a floor space area of approximately 26m². By virtue of its roof level location the unit has good levels of natural light and outlook. Whilst the unit does fall below the minimum recommended floor space area for new self-contained units, it is not considered to be so sub-standard as to be uninhabitable. Notwithstanding this the removal of the roof extension and replacement of the original shallow roof would render the unit uninhabitable.

Impact on neighbour amenity:

- 7.8. The kitchen and living room windows on the east elevation of the extension do facilitate views into an unobscured window located towards the rear of the flank elevation on the adjacent building (20 Buckland Crescent). This is likely to be a habitable room window and is not otherwise overlooked by any other windows in the side elevation of the subject building. It is considered that the level of perceived and actual overlooking from the unauthorised extension into this window is harmful to the amenities of the occupiers and contrary to policy and guidance which seeks to protect neighbour amenity. It should be noted that a planning application for the installation of windows in the side elevation of the subject building was refused permission on the grounds of unacceptable overlooking (see paragraph 3.1. above).

8. CONCLUSION

- 8.1. Whilst the provision of additional residential accommodation is consistent with current policy H1, this benefit does not outweigh the visual harm caused by the development to the appearance of this building or to the character and appearance of the conservation area. In addition, the roof extension has an unacceptable impact on the amenities of adjoining occupiers by facilitating harmful overlooking of a habitable room window.
- 8.2. In order to remedy the breach of planning control and to cease the harm being caused it is recommended that the roof extension be removed in its entirety and that the original roof be reinstated. In recognition of the fact that the residential unit is currently occupied and that the works required to remedy the breach will likely require contractors to be sought, it is recommended that a compliance period of 12 months be given.

9. LEGAL COMMENTS

- 9.1. Members are referred to the note from the Legal Division at the start of the Agenda.

10. RECOMMENDATION

That the Director of Law & Administration be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended, 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.

10.1. The Notice shall allege the following breach of planning control:

The unauthorised erection of a roof extension at 22 Buckland Crescent, NW3 5DX.

10.2. The Notice shall require that within a period of 12 months of the Notice taking effect the roof extension shall be removed in its entirety and the original roof shall be reinstated.

10.1 REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

The unauthorised roof extension, by virtue of its disproportionate size, unsympathetic bulky design, inappropriate materials and prominent location is harmful to the appearance of the building and to the character and appearance of the conservation area, and by virtue of facilitating overlooking to an adjacent window at 20 Buckland Crescent is harmful to neighbour amenity, contrary to policies S1, S2, SD1, SD6, B1, B3 and B7 of the Council's Replacement Unitary Development Plan 2006, Chapters 10, 29, 40 and 41 of Camden Planning Guidance 2006 and guidance contained within the Belsize Conservation Area Statement (2003).

The roof extension has been erected within the last four years and it is therefore expedient to pursue enforcement action.

