



APPEAL BY:  
Mr David Josephs

AGAINST THE LONDON BOROUGH OF CAMDEN COUNCIL'S REFUSAL  
TO GRANT PLANNING PERMISSION FOR:  
*The installation of balustrade to the rear elevation of existing roof terrace, new  
staircase and glass balustrade for the provision and creation of an additional roof  
terrace, associated with existing top floor flat*

AT  
Flat Second & Third Floor, 26 Steeles Road, London, NW3 4RE

The London Borough of Camden Council's Reference: 2014/2894/P

WRITTEN REPRESENTATIONS: GROUNDS OF APPEAL

August 2014

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## 1.0 INTRODUCTION

1.1 This statement has been prepared by RJS Planning, on behalf of Mr David Josephs, in support of the appeal lodged against the refusal of planning application 2014/2894/P.

1.2 The application sought planning permission for the installation of a balustrade to the existing roof terrace and the creation of a roof terrace over the rear most section of the main roof of the building served by a new external staircase from the existing rear terrace and with a glass balustrade surround. The application was refused under delegated authority on 22<sup>nd</sup> June 2014 for the following reason:

- 1) *The proposed stairwell enclosure and the installation of glazed balustrading in association with the additional roof terrace, by reason of its location, design and inappropriate material, would be an unsympathetic and incongruous addition, detrimental to the character and appearance of the host building and the conservation area, 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.*
- 2) *The proposed roof terrace, by reason of its size, position and proximity to neighbouring residential accommodation, would lead to a harmful degree of noise and general disturbance to neighbouring properties. The application is therefore contrary to Policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and Policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.*

1.3 This grounds of appeal will address the central concern raised within the Council's reason for refusal, notably:

- Whether the proposed works would be of detriment to the character and appearance of the existing building and the visual amenities of the terrace and the Conservation Area in general.
- Whether the proposed roof terrace would be harmful to the residential amenities of the neighbouring properties by virtue of noise and disturbance.

1.4 To set some context, this statement will first provide a description of the appeal property, the surrounding area and the proposed development. This statement will then discuss the relevant national and local planning policy before responding to the Council's concerns.

## 2.0 THE SITE, THE SURROUNDING AREA & THE PROPOSED DEVELOPMENT

2.1 The appeal site is located on the north-western side of Steeles Road, a residential road within the Eton Conservation Area and comprises a four storey terraced building, with loft accommodation, comprising two maisonettes and one flat. The existing building features a pitched roof dormer window and rooflight to the front and an inverted roof terrace to the rear.

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- 2.2 Neither the appeal building nor the surrounding buildings are listed, however the terrace of buildings is considered by the Council to make a positive contribution to the Conservation Area.
- 2.3 The appeal application sought planning permission for the creation of a roof terrace over the rear most section of the main roof, served by a new external staircase from the existing inverted roof terrace to the rear with glass balustrading around both the new terrace and the existing rear terrace.

### **3.0 RELEVANT PLANNING POLICY**

- 3.1 The reasons for refusal refer to Policies CS5 & CS14 of the London Borough of Camden Local Development Framework Core Strategy and to Policies DP24, DP25 & DP26 of the Camden Local Development Framework Development Policies.
- 3.2 Although it is not referred to within the reason for refusal, the National Planning Policy Framework is also considered to be of relevance to this appeal. The following paragraphs provide a brief summary of the relevant policies. The paragraphs are in a hierarchical order relative to the importance of national and local planning policy.

#### **National Planning Policy Framework (NPPF)**

- 3.3 The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. The following sections and paragraphs make reference to the parts of the NPPF which are directly relevant to this appeal.

#### **Presumption in Favour of Sustainable Development**

- 3.4 Paragraph 14 of the NPPF sets out that a presumption in favour of sustainable development is at the heart of the National Planning Policy Framework with paragraph 197 stating that local planning authorities should approach decision making in a positive way and should look for solutions rather than problems. The NPPF also advises that decision takers at every level should seek to approve applications for sustainable development where possible.

- 3.5 For decision making this means:

- *Approving development proposals that accord with the development plan without delay;*
- *Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:*
  - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
  - *specific policies in this Framework indicate development should be restricted.*

#### **Core Planning Principles**

- 3.6 Paragraph 17 of the NPPF sets out 12 core land-use planning principles which should underpin both plan-making and decision taking. The second, fourth and tenth bullet points state that planning should:

- *“Not simply be about scrutiny but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives”.*
- *Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.*
- *Conserve heritage assets in a manner **appropriate to their significance**, so that they can be enjoyed for their contribution to the quality of life of this and future generations.*

#### Requiring good design

- 3.7 Section 7 of the NPPF refers to design, however there are no specific policies or guidance relating to residential extensions. Indeed paragraph 60 states:

*“Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles”.*

- 3.8 Paragraph 58 states that planning policies and decisions should aim to ensure that development should respond to local character and history and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.

#### Conserving and enhancing the historic environment

- 3.9 Section 12 of the NPPF refers to the conservation and enhancement of the historic environment. Paragraph 133 states that local planning authorities should refuse consent if a proposed development would lead to **substantial harm** to the significance of a designated heritage asset (including a Conservation Area).
- 3.10 The NPPF does not define “substantial harm” but it is widely accepted as including the total loss of a heritage asset, or fundamental compromise of its significance by means of extensive physical alterations, or inappropriate development within its setting. Such an impact can only be justified on the grounds that the harm is necessary to deliver important public benefits that outweigh the value of the heritage asset. In these terms it is absolutely clear that the application proposal will not result in “substantial harm” to the Conservation Area. Moreover, it must be pointed out that even the Council do not state within the reason for refusal that the proposal would lead to substantial harm to the historic significance of the Conservation Area.
- 3.11 Paragraph 134 of the NPPF sets out that “less than substantial harm” arises from proposals which include physical alterations or development within the setting, which on balance retain the fabric-authenticity and integrity of the heritage asset. The NPPF advises that such proposals should be “weighed against the public benefits of the proposal”. Such benefits include securing a sustainable future for the heritage asset.

#### Decision-taking

- 3.12 Paragraph 196 reiterates that the planning system is “plan led” stating that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 196 clarifies that the NPPF is a material consideration in planning decisions. Paragraph 197 states

that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

**The Adopted Core Strategy – Policy CS5**

- 3.13 Policy CS5 refers to “Managing the impact of growth and development”. The policy states that the Council will protect the amenity of Camden’s residents and those working in and visiting the borough by making sure that the impact of development on their occupiers and neighbours is fully considered.

**The Adopted Core Strategy – Policy CS14**

- 3.14 Policy CS14 refers to “Promoting high quality places and conserving our heritage” and states that the Council will seek to ensure that Camden’s places and buildings are attractive by requiring development to be of the highest standard of design that respects local context and character and by preserving and enhancing Camden’s heritage assets and their settings, including Conservation Areas.

**The Adopted Development Policies DPD – Policies DP24, DP25 & DP26**

- 3.15 Policies DP24, DP25 and DP26 of the Development Policies DPD are referred to within the reason for refusal.
- 3.16 Policy DP24 relates to “securing high quality design” and states that the Council will require all developments, including extensions to existing buildings, to be of the highest standard of design. The policy sets out that proposals should consider the character, setting, context and the form and scale of existing and neighbouring buildings and the materials to be used.
- 3.17 Policy DP25 refers to “Conserving Camden’s heritage” and states that the Council will seek to maintain the character of conservation areas by taking account of conservation area statements, appraisals and management plans when assessing applications and by only permitting development that preserves and enhances the character and appearance of conservation areas.
- 3.18 Policy DP26 refers to “Managing the impact of development on occupiers and neighbours” and states that the Council will protect the quality of life of occupiers and neighbours by only granting permission for development that does not cause harm to amenity. Criterion d) refers specifically to noise and vibration.

**4.0 THE APPELLANTS CASE**

**Introduction**

- 4.1 The Appellant’s case will focus on the central concern of the reason for refusal, notably whether the proposed works would be of detriment to the character and appearance of the existing building and the visual amenities of the terrace and the Conservation Area in general and whether the proposed roof terrace would be harmful to the residential amenities of the neighbouring properties by virtue of noise and disturbance. This case will demonstrate that the proposed works would preserve the character and appearance of the building, the terrace and the Conservation Area, whilst not being of any harm to the residential amenities of the neighbouring properties.

### Visual amenity

- 4.2 As a starting point it is necessary to clarify the Council's actual concern. According to the decision notice and the Case Officer's delegated report, the Council consider that the roof terrace would be an unwelcome addition with the balustrading representing an incongruous addition, which would be visible in views from Haverstock Hill and from the properties to the rear. The delegated report suggests that the impact would be exacerbated by the introduction of residential paraphernalia such as umbrellas and plants.
- 4.3 The professional opinion of the Case Officer is respected and indeed it is understood as to why the Officer may have concerns, however it is considered that the Officer has adopted an overly cautious stance, failing to have any regard to similar roof terraces in the immediate vicinity, including the roof terrace at the property opposite as shown in the photo below



- 4.4 For clarification, the Camden Planning Guidance 2011: CPG1 (Design) stipulates when roof terraces will be acceptable and unacceptable. The guidance states that roof terraces should complement a building, being set back and not covering the entire available roof space, with a careful choice of materials to match.
- 4.5 In this instance the roof extension would be located only on the rear-most section of the roof. It is evident that the terrace would not be visible from within the Steeles Road street scene and whilst the terrace may be visible in long distance views from Haverstock Hill, the visual impact of the terrace would be negligible with only the balustrading and part of the new stairs being visible and it cannot be reasonably considered that such elements would appear unduly prominent or visually intrusive in such views. The photograph of the roof terrace opposite the appeal site, demonstrates the limited actual visual impact that such terraces have and the views from the properties to the rear of the appeal site would be similar to those from the appeal building to the terrace opposite. It is strongly asserted that the terrace would not have a harmful visual impact on the building, the terrace or the wider locality. The roof terrace has been sympathetically designed and would integrate well with

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the existing building and the fact that the roof terrace would be visible per se does not in itself mean that the roof terrace would be detrimental to the street scene or the Conservation Area. The roof terrace would not significantly increase the overall scale or built form of the roof and would not be of substantial harm to the appearance of the building so as to warrant a refusal. It is maintained that the proposed terrace would form an entirely acceptable addition to the building which would respect the form and appearance of the existing building whilst making an efficient and effective use of the flat roof, improving the residential amenities of the occupiers of the appeal property. The terrace and screen would not appear visually intrusive or prominent and by virtue of its siting to the rear of the roof would have no impact on the street scene and little impact on the public realm in general. Whilst it is understandable that the Council would want to prevent unsympathetic development, it is asserted that the Council have failed to adequately assess or appreciate the appeal proposal. The Appellant has no desire to construct a roof terrace which is not worthy of the appearance of the existing building, the site or the area and strongly feels that the proposed terrace would make a positive addition to both the external appearance of the existing building and to the level of amenity space that could be provided.

- 4.6 The impact of the proposed terrace would be negligible and therefore would clearly sustain the significance of the Conservation Area and peoples experience of it and it is strongly asserted that the significance and appreciation of the Conservation Area within the zone of influence of the proposal would not be compromised by the proposed terrace. As set out above, the NPPF states that planning permission should be refused only if a proposed development would lead to **substantial harm** to the significance of a designated heritage asset (including a Conservation Area). The NPPF does not define “substantial harm” but it is widely accepted as including the total loss of a heritage asset, or fundamental compromise of its significance by means of extensive physical alterations, or inappropriate development within its setting. It is absolutely clear that the appeal proposal will not result in substantial harm, or even less than substantial harm to the setting of the Conservation Area. It is acknowledged that the Council’s policies seek to conserve and enhance heritage assets including the character, appearance and setting of Conservation Areas. However the National Planning Policy Framework (published in 2012) states that heritage assets should be conserved in a manner appropriate to their significance. It is put forward that the proposed works, by virtue of their limited actual impact on the street scene and the public realm, would at the very least, conserve the character and appearance of the Conservation Area. The proposed works would, at worst, have a neutral impact and would be of no harm to the Conservation Area. The Appellant maintains that the development would be of no detriment to the visual amenities of the area or the setting of the Conservation Area and asserts that the proposal fully complies with the 12 core planning principles set out within the NPPF.

#### Neighbour Amenity

- 4.7 The Council’s concern in this regard cannot be based on fact and can only be based on the Case Officer’s perception that the roof terrace would lead to unacceptable levels of noise and disturbance. It is pointed out that no local planning policies specifically resist the creation of roof terraces and in many cases the Council would have granted permission for roof terraces within the vicinity. Indeed, the appeal property already benefits from a roof terrace as do a number of the neighbouring properties in the wider locality. The Case Officer’s concern appears to be based on the size of the roof terrace and its potential use in conjunction with the existing terrace.

- 4.8 As discussed above, this matter cannot be assessed based on factual information as it is difficult to predict the likely level of noise and disturbance that would be generated by the use of the proposed roof terrace. It is appreciated that the Case Officer may have assessed the application based on a "worst case scenario" however the Appellant maintains that the Council have adopted an overly cautious approach in this regard. The proposed roof terrace would serve the existing residential unit and would not result in an unacceptable level of noise or disturbance to the surrounding neighbouring properties. It would also be similar to a number of other roof terraces within the immediate vicinity, including the existing roof terrace at the appeal property and the terrace opposite, which do not result in unacceptable levels of noise and disturbance to surrounding occupiers. For the avoidance of doubt, there have been no historical complaints regarding the use of the existing terrace.
- 4.9 The Council appear to have raised an objection on the basis of the size of the terrace, presumably on the grounds that the size could give rise to significant numbers of people that would be able to make use of the space at any one time. The Appellant does not consider the Council's method of assessment (i.e. effectively that a large number of people could be on the terrace at any one time) to be an appropriate means by which to assess the potential impact on the neighbouring properties. For example, any property, with or without a garden, could hold a party for a large number of people which would result in a degree of noise and disturbance to neighbouring properties. Moreover, the manner in which the occupants use a property is outside the control of the planning system. The Appellant would suggest that a more suitable approach would be to consider the average likely usage of the terrace. For example, in winter months, the terrace is likely to be used very little, whilst in summer months the terrace is likely to be used on days and evenings when there is suitable weather and when the occupants are not at work. The occupiers may choose to hold a number of parties in which they utilise the terrace, however the use of the terrace would otherwise largely be limited and any such parties or gatherings would not give rise to a level of noise or disturbance that would not be unexpected to be generated by the average party at the average property in the area. There is no reason to suggest that the terrace would, on average, give rise to an unacceptably greater level of noise and disturbance than what could already be generated from the existing terrace or from what would be reasonably expected within a residential garden within a dense area such as this.
- 4.10 Moreover, given the Council consider that the terrace would not give rise to unacceptable levels of overlooking it is surprising that the Council are concerned regarding the impact in terms of noise and disturbance. Such concerns regarding balconies and roof terraces would normally be linked, with one concern being likely to lead to the perception of the other. The lack of concern regarding overlooking would suggest that the roof terrace would be equally acceptable in terms of noise generation. Finally, whilst it is acknowledged that development in one location does not necessarily set a precedent for development in another, the Appellant points out that the property opposite benefits from a similar roof terraces. The proposed roof terrace would have no greater impact on the surrounding neighbouring properties than the existing terrace at the appeal property and no greater impact than what the terrace at the neighbouring property in the vicinity would have on their respective neighbouring properties.
- 4.11 In summary, the proposed roof terrace would not result in an **unacceptable** level of noise and disturbance to the surrounding occupiers. As such, the terrace would not result in a significant loss of residential amenity to the occupiers of the neighbouring properties.



## 5.0 CONCLUSION

- 5.1 The proposed terrace and associated works would be of no harm to the character or appearance of the building or the Conservation Area and of no detriment to the residential amenities of the neighbouring properties. The Council's objections lack substance, are based on a subjective Officer opinion and are overly cautious and exaggerated. Although the Council seem reluctant to allow roof terraces such as this, roof terraces are acceptable in principle and a similar roof terrace is located at a neighbouring property directly opposite. The Appellant understands why the Council may have concerns, however the Council have adopted an overly cautious approach failing to fully take into account the limited actual impact that the extension would have on the building, the area and the neighbouring properties.
- 5.2 The proposed works are not contrary to any specific requirements within the policies of the Local Development Framework and the National Planning Policy Framework (NPPF) states that decision-takers at every level should seek to approve applications for sustainable development where possible and that applications should be considered in the context of the presumption in favour of sustainable development. The proposed terrace would not be contrary to national or local planning policy and for the above reasons it is politely requested that this appeal is allowed.