

Delegated Report		Expiry Date:	02/05/2014	Officer:	David Peres Da Costa
Application Address		Application Number(s)	1st Signature	2nd Signature	
256 Kilburn High Road London NW6 2BY		2014/1584/P			
Proposal(s)					
Change of use of first floor rear addition from ancillary retail storage (Class A1) to 1-bedroom flat (Class C3) and alteration to fenestration.					
Recommendation(s):		Refuse planning permission and warn of enforcement action			
Application Type:		Full planning permission			
Consultations	Date advertised	21 days elapsed		Date posted	21 days elapsed
Press notice	n/a		Site notice	n/a	
Date sent		21 days elapsed	# Notified	# Responses	# Objections
Adjoining Occupier letters	7/3/14	28/3/14	18		1
Consultation responses (including CAACs):	254 Kilburn High Road – object [this objection refers to a planning application (ref: 2014/3244/P) at No. 254 and its relationship to the current proposal, subject of this application] <ul style="list-style-type: none"> Concerned first floor windows which serve a bedroom and face east, directly into our site, set back just one metre from the boundary. If both schemes are approved there would be an unacceptable impact on the outlook and privacy to a number of the flats contained within our site. Given this, the 256 proposal, by placing habitable windows on this boundary would be unneighbourly development which would have prejudicial impact on our site impacting on its efficient redevelopment 				
Site Description					
The application site is located to the north eastern side of Kilburn High Road at the end of a terrace of properties. The area comprises various commercial and residential uses. The application site is in commercial use on the ground floor with residential use to the upper floors. The site is not located within a conservation area and the building is not listed.					

Relevant History

2013/7263/P: Temporary change of use for up to two years of retail/financial building (Class A1/A2) to restaurant (Class A3) from December 2013. GPDO prior approval Class D notification dated 11/11/2013

2013/1073/P: Erection of first floor rear extension in connection with existing retail unit (Class A1). Granted 10/10/2013

The officer's delegated report included the following design assessment:

The revised proposal is considered to take account of the Inspectors comments, in reducing the width of the extension to set it in-line with the existing stair, reduce the height so it appears less dominant and decrease the depth adjacent to the rear of the property. The proposed extension would not be as bulky and overly scaled as the existing extension but would constitute an appropriate form of development that would respect the proportions of the parent building.

The Inspector noted views of the extension are available from the rear walkway and from the industrial yard directly to the rear of No.254. As noted by the Inspector the side of the extension can clearly be seen when approaching Kilburn High Road along the southerly footway on Buckley Road. Regardless of whether it is seen from the rear in private views or from the side in public views it is considered a visually intrusive feature that detracts from the character and appearance of the surrounding area, as noted within the Inspectors decision. This application has sought to address this by setting the southerly elevation of the extension in by 1.6m so views would be limited. Along the boundary there would be a brick wall however this would measure 5.9m above ground level rather than the existing 7.7m high parapet wall which bounds the site on the southerly elevation. Therefore although the development would still be partially visible its views would not be so prominent. It is considered that sufficient revisions have been made to address this concern.

Given the recent enforcement notice, subsequent appeal and as the existing extension is unlawful a condition will be used to ensure the current application is implemented within 6 months of the date of the decision notice.

EN11/0025 – An Enforcement notice was issued 22 July 2011 for the unauthorised construction of a rear extension at first floor level. The requirements of the notice were: the structure at rear first floor level shall be completely removed and the roof of the ground floor shop shall be made good and left in a tidy and waterproof condition. The period for compliance with the requirements is 4 months.

This notice was appealed by the applicant (Ref: APP/X5210/C/11/2160029) and dismissed by the Planning Inspectorate. The Inspector considered that the extension unacceptably damaged the character and appearance of the host building and surrounding area. In respect of amenity the Inspector considered that if the structure were modified as set out in the plans which formed Appendix B of their appeal submission there would not be an adverse impact on the amenity of neighbouring residents. The inspector also amended the requirements of the enforcement notice: 'the structure at rear first floor level shall be completely removed and the roof of the ground floor shop shall be restored to its condition before the breach of planning control took place'.

254 Kilburn High Road

2014/3244/P: Redevelopment of the site (following demolition of existing buildings) to provide a mixed use development, comprising the erection of six storey building (with set back top floor) to provide 989 sqm of commercial space (Classes B1 and B8) and 62 dwellings plus cycle parking, 2x disabled car parking bays, refuse/recycling facilities and access together with landscaping including outdoor amenity space. Granted Subject to a Section 106 Legal Agreement 18/12/2014 (the s106 legal agreement has not been signed to date)

Relevant policies

NPPF 2012

London Plan 2011

LDF Core Strategy and Development Policies

CS1 (Distribution of Growth)

CS5 (Managing the Impact of Growth and Development)

CS6 (Providing quality homes)

CS11 (Promoting sustainable and efficient travel)

CS14 (Promoting High Quality Places and Conserving Our Heritage)

CS19 (Delivering and monitoring the Core Strategy)

DP6 (Lifetime Homes and Wheelchair Homes)

DP18 (Parking standards and limiting the availability of car parking)

DP24 (Securing High Quality Design)

DP26 (Managing the Impact of Development on Occupiers and Neighbours)

Camden Planning Guidance

CPG 2 (Chapter 4 and 5)

CPG 6 (Chapter 6 and 7)

Assessment

Proposal: Permission was previously granted for a first floor rear addition to provide a storage area and restroom ancillary (37sqm) to the ground floor retail unit. This application seeks permission for a change of use of the first floor rear addition from ancillary A1 use to a 1 bedroom flat (Class C3).

Permission is also sought to replace a first floor window on the side elevation with French doors with timber framed windows either side.

Assessment:

Quality of accommodation

The floorspace of the proposed flat would be 37.5sqm. Camden Planning Guidance (CPG 2 Housing) indicates the minimum floorspace for a dwelling for 1 person is 32sqm and for 2 persons is 48sqm. London Plan Policy 3.5 places significant focus on dwelling space standards. The Mayor regards the size of all new homes to be a key strategic issue and the Plan itself provides minimum space standards for dwellings of different types. They therefore have the force of development plan policy (paragraph 2.3.11 of Housing SPG). The London Plan (LP) minimum standard for a 1 bedroom 2 person flat is 50sqm. The Mayor's Housing SPG states that when considering application of LP standards in Boroughs which already have their own standards, the LP standards should be used as minima. As the proposal is for a 1 bedroom flat (as indicated on the application form and shown on the submitted plans), the floorspace required is 50sqm. Whilst the bedroom (13.5sqm) provides the minimum floorspace required by both CPG 2 and the Housing SPG, the living, kitchen, dining space (20sqm) does not meet the floor area suggested by the Housing SPG as good practice (23sqm).

The living room window would look out onto a 1.4m boundary wall enclosing a passage to the side of the flat. The living room window would be separated from this boundary wall by just 1.4m. Beyond this boundary wall is the flank wall of 252 Kilburn High Road which is approximately 5.7m from the living room window. Given this context, the outlook from the living room window is considered poor. Moreover, the bedroom window would be approximately 8.5m from the living room windows of the recently approved scheme at 254 Kilburn High Road (2014/3244/P). Whilst this scheme has not been implemented (and the legal agreement has yet to be signed), the relationship between the approved development and the subject flat is highly relevant. The occupiers of the proposed flat would

be overlooked by the approved development at 254 Kilburn High Road. CPG6 – Amenity states that it is good practice to provide a minimum distance of 18 metres between habitable room windows to avoid overlooking. This is not complied with and harmful overlooking and loss of privacy to future occupiers of the proposed flat would result.

It is not clear that the proposed dwelling would have adequate daylight / sunlight, given the 6 storey building approved at 254 Kilburn High Road. No further information nor justification has been provided in the form of a daylight/sunlight report. ;

Given the floorspace falls significantly short of the minimum required by the London Plan, the poor outlook from the living room window and the bedroom has the potential to be overlooked and would lack privacy, the quality of the proposed accommodation is considered sub-standard and would not accord with Core Strategy policy CS6 providing quality homes.

Lifetime Homes

Policy DP6 states lifetime homes standards will be applied to all developments of self-contained housing, including conversions, reconfigurations and changes of use. All housing proposals should be accompanied by a submission showing how each of the lifetime homes standards will be met, with a full justification why any individual element will not be met. The applicant has provided a Lifetimes homes assessment which advises the 16 criteria cannot all be met. Whilst justification has been provided for some of the lifetime homes criteria, the explanation in respect of criterion 14 is not sufficient (criterion 14: an accessible bathroom, providing ease of access in accordance with the specification given by Lifetime Homes, should be provided in every dwelling on the same storey as a main bedroom). The proposed bathroom would not meet the specification required to meet criterion 14 (i.e. the approach zone does not extend forward from the front rim of the WC by at least 1100mm). It is not evident from the submitted Lifetimes homes assessment that the applicant is aware of the specification to achieve Criterion 14. Given the failure to meet criterion 14 and the lack of justification provided, the proposed development does not comply with policy DP6.

Design:

The design of the first floor structure has been accepted by the previous approval (ref 2013/1073/P). The current design differs from the previous approval as a window would be replaced by French doors on the side elevation (flanked by windows). This alteration is considered acceptable in design terms.

Amenity:

Following formal pre-application advice, an application for 254 Kilburn High Road was received during the assessment of the current application. This application has subsequently been granted (18/12/2014) subject to a Section 106 legal agreement (ref: 2014/3244/P). An objection has been received by the agent of this property. The objection raises concerns regarding overlooking and loss of privacy of the approved flats on the south west elevation (facing towards the rear elevation of 256 Kilburn High Road). As stated above, the proposed bedroom window would be approximately 8.5m from the living room windows of the approved scheme at 254 Kilburn High Road. There is insufficient distance to prevent harmful overlooking and loss of privacy to the future occupiers of the flats in the approved development.

Transport:

A cycle storage space is required for the proposed flat. No details of cycle storage have been

provided. Given the flat is at first floor level it is not evident that cycle storage could be provided which has convenient access to the street. Given the constraints of the site, it is accepted that convenient and accessible cycle storage is not feasible.

The Council expects development in Low Parking Provision Areas (i.e. the Central London area, our town centres and other areas with high public transport accessibility) to be car-free. The site has a PTAL of 6a (excellent) and is in the Kilburn Town Centre, so car free development would be required. In the absence of a legal agreement to secure car free development, the proposed development should be refused.

Enforcement:

Following a site visit, it is noted that neither the enforcement notice (EN11/0025) dated 22/7/11, has been complied with. The development appears unfinished (there is no window in the space provided on the side elevation) and to be substantially in the same state as when the enforcement notice was served. Therefore the applicant is in breach of the enforcement notice and so the matter should be referred back to enforcement so that they can commence prosecution.

Recommendation: Refuse planning permission and warn of enforcement action