

15 Highgate Road, London, NW5 1QX

2014/7171/P



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Site Photos –

Photo 1: View of elevation facing Swain's Lane



Photo 2: View of rear elevation from St Alban's Villas



Photo 3: View from the proposed terrace to the north and north east up Swain's Lane



Photo 4: View from the proposed terrace towards adjacent buildings of Swain's Lane



Photo 5: View from the proposed terrace into blank gable at 2a Swain's Lane



Photo 5: View from the proposed terrace into St Alban's Villas



Delegated Report (Members Briefing)		Analysis sheet		Expiry Date:	12/01/2015
		N/A / attached		Consultation Expiry Date:	25/12/2014
Officer			Application Number(s)		
Jonathan McClue			2014/7171/P		
Application Address			Drawing Numbers		
15 Highgate Road London NW5 1QX			Refer to draft decision notice.		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s) Creation of roof terrace with associated balustrade at second floor level.					
Recommendation(s):		Grant conditional permission			
Application Type:		Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	07	No. of responses	00	No. of objections	00
			No. Electronic	00		
Summary of consultation responses:	<p>A site notice was displayed on 04/12/2014 and the application was advertised in the Ham & High on 28/11/2014.</p> <p>No individual written representations were received</p>					
Local groups comments:	<p>One objection was received from the Swain's Lane R&NW Association. Their concerns are summarised below:</p> <ul style="list-style-type: none"> The elevations appear inaccurate in respect of the height of the walls which need to be at least 1.1m (minimum balustrade height under building regulations) Proposed terrace would increase the bulk to the building The terrace would overlook the adjacent garden used by St Alban's Villas and would disturb residents by way of noise and general disturbance The submitted drawings show that the flat roof area on the north-eastern corner of the building (at first floor level) is being used as a terrace. This roof does not have existing permission to be used as a terrace. The submitted drawings (North Existing Elevation Drawing (15HR/E/003) and the Proposed North Elevation Drawing (15HR/P/005)) do not show a wall or railing at a height of 1.1m in accordance with building regulations. Planters have been placed on the coping of the building above a busy road and are dangerous. <p><u>Officer Response:</u></p> <ul style="list-style-type: none"> The proposed north, east and south elevations all show that the handrail would be 1.1m above the roof terrace floor level of the proposed second floor terrace. This has been verified by measuring the plans and the drawings are annotated with this measurement. Furthermore, this is a Buildings Regulation requirement and would be enforced under this legislation. The proposed terrace would result in the introduction of a handrail which would mostly be screened by a planter to the top of the parapet. These additions are not considered to add bulk to the building to a level that would be unacceptable. It is also noted that a 					

	<p>planter would not require planning permission to install as it does not constitute development. In addition, planters are shown on the approved elevations from the original planning permission under 2011/3819/P.</p> <ul style="list-style-type: none">• The adjacent garden used by St Alban's Villas is a communal garden that is already overlooked by the surrounding buildings in the estate and other properties that lie adjacent to this site. St Alban's Villas contains a communal garden area and walkways which are used by its residents. Given the urban nature of the area which includes a high density of living and the size and location of the proposed terrace, it is not considered that it would result in an undue level of harm by way of noise and general disturbance. The terrace adjacent to St Alban's Villas would serve a kitchen and would be 6.8sq.m in size.• The proposed first floor plan of the original approval (ref: 2011/3819/P) show this area as a balcony. Therefore, this terrace already has permission. Notwithstanding the above, the current application relates to the "Creation of terrace with associated balustrade at second floor level" as per the description of the development. As the first floor terrace does not form part of the proposal and it has previously been given permission, it does not form part of the assessment here.
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Site Description

This application relates to a site with an existing permission for upper level extensions, the creation of a new third floor and 3 self-contained flats under 2011/3819/P. The development has commenced with the works substantially completed.

The host property is located on a prominent corner site at the junction of Highgate Road, Swain's Lane and Highgate West Hill. It forms part of the Dartmouth Park Conservation Area and is located in close proximity to the boundary with both Highgate Village Conservation Area (30 metres) and Holly Lodge Estate Conservation Area (35 metres away). An estate (St Alban's Villas) lies to the rear (south and southwest) of the application site.

Relevant History

2011/3819/P: Planning permission was granted subject to a Section 106 Agreement on 30/03/2012 for the "Change of use of upper floors from ancillary restaurant accommodation (Class A3) to create three (2x2 and 1x3 bed) self-contained flats (Class C3) including rear (south) extensions at first and second floor level and roof extension to create new third floor level with external terrace areas and associated alterations including new entrance on Highgate Road (west) elevation". It is noted that conditions 9 and 10 have not been implemented on site to date.

2013/5645/P: Planning permission was refused on 08/04/2014 for the "Erection of single storey side extension at ground floor level of restaurant (Class A3)". **A subsequent appeal was allowed on 22/09/2014 under APP/X5210/A/14/2221154.**

2014/0409/P, 2014/0416/P, 2014/0422/P and 2014/0738/P: 4 separate Approval of Details applications were submitted to discharge conditions 9 and 10 of 2011/3819/P. They were all refused and subsequent appeals were dismissed.

2014/3461/P: Details were approved for conditions 9 and 10 of 2011/3819/P on 07/07/2014. The proposal differs from the refused schemes in the paragraph above as the cycle and refuse storage would be located within an area of open land to the side of the building which would be within the footprint of the approved extension under 2013/5645/P. These details have not been implemented which is a prior-occupation requirement.

2014/6953/P: An Approval of Details application relating to conditions 9 and 10 of 2011/3819/P was refused with a recommendation to issue a Breach of Condition Notice under Section 187A of the Town and Country Planning Act 1990 on 05/03/2015.

EN14/0289: A Breach of Conditions Notice was issued on 27/04/2015 as details pursuant to conditions 9 and 10 have not been provided on the site even though these were required prior to the occupation of the new units approved under 2011/3819/P. The applicant has a period of 3 months to either implement the approved details under 2014/3461/P or cease occupation of the new residential units.

Relevant policies

NPPF 2012

London Plan March 2015, consolidated with alterations since 2011

Local Development Framework 2010

Core Strategy

CS5 (Managing the impact of growth and development)
CS6 (Providing quality homes)
CS14 (Promoting high quality places and conserving our heritage)

Development Policies

DP24 (Securing high quality design)
DP25 (Conserving Camden's heritage)
DP26 (Managing the impact of development on occupiers and neighbours).

Camden Planning Guidance

CPG1 (Design) 2014
CPG6 (Amenity) 2011

Dartmouth Park Conservation Area Appraisal and Management Statement (Adopted 22 January 2009)

Assessment

1.0 Background

1.1 Planning permission was granted on 30/03/2012 under 2011/3819/P to create three (2x2 and 1x3 bed) self-contained flats; rear extensions at first and second floor level and a roof extension to create a third floor. This approval was subject to pre-commencement conditions being implemented prior to the occupation of the approved residential units, including conditions 9 and 10 which relate to cycle and refuse storage. These details were approved under 2014/3461/P, however, they have not been provided on site prior to the occupation of the new residential units. This matter is currently being handled by way of a Breach of Conditions Notice ref: EN14/0289.

1.2 The current application relates to adding a terrace to one of the approved and constructed units. It is noted that the scope of this permission is considering the creation of this terrace alone and it would not give the applicant the right to occupy the units. Therefore, this application can be assessed independently to form part of the approved development. The construction and completion of the building is lawful and the conditions have been discharged in this aspect, however, the building cannot be lawfully occupied and any potential terrace could not be used until such time as conditions 9 and 10 have been implemented on site. There is case law to confirm that this application can be determined as the matter does not lie at the heart of the development (i.e. the creation of a terrace to a lawfully developed building can be assessed as a separate matter to the lawful occupation of the building).

2.0 Proposal

2.1 Planning permission is sought for the creation of a roof terrace on the second floor of the building and an associated balustrade (handrail). The terrace would serve the rear of Flat 2 which is a 2 bedroom flat. It would be divided into two sections by an insulated timber boxing (which covers the kitchen ducts) and accessed from the kitchen and dining room.

2.2 The terrace would have an area of 6.8sq.m behind the kitchen and 6.28sq.m behind the dining room. A metal handrail would be constructed at height of 1100mm above the roof terrace floor level and 700mm above the parapet.

2.3 The terrace would be on the south-eastern corner of the building.

2.4 The main issues to assess as part of the proposal include its effect on the character and appearance of the host building and the Dartmouth Park Conservation Area, and its effect on the living conditions of the surrounding residential occupiers.

3.0 Design

3.1 In terms of external alterations, this would be limited to the introduction of a metal handrail that would extend 700mm above the parapet of the existing roof. Given the nature and appearance of the proposed development, it is considered that it would be in keeping with the host building by virtue of its use of materials and design and that it would preserve the character and appearance Dartmouth Part Conservation Area.

3.2 The handrail, which is considered acceptable in appearance, would be setback by 3.3m from the elevation fronting Swain's Lane and would be obscured from wider views by the building itself and neighbouring structures. In addition, planter boxes are shown on the proposed drawings to soften the appearance of the handrail.

4.0 Residential Amenity

4.1 The proposed terrace would not introduce material opportunities for overlooking. Its views to the

north would be limited to the fronts of buildings set on the opposite side of Swain's Lane. The adjacent buildings on Swain's Lane to the east have blank elevations with no windows or amenity spaces that the proposed terrace could overlook. To the south and south east lies St Alban's Villas which includes a block of flats and a communal grass area. The grass area is subjected to overlooking from the surrounding residential units and occupiers of the estate. The north-facing wall of the adjacent building is a blank gable and the front elevation is at an obscure angle to the terrace with the front windows serving kitchens. A communal balcony serving the front entrances of the units within the block is attached to the building. Due to the communal garden area already being significantly overlooked by the surrounding residential units, users of the estate and from surrounding properties, it is not considered that the terrace would materially increase existing levels of overlooking, and, in any event, this space is a communal area and not one reserved for private use. Given the setback, obscure angle and distance of the terrace from the front of the neighbouring units, whose front windows serve a kitchen, it is not considered that the living conditions of the occupiers within those units would be materially harmed by way of a loss of privacy.

4.2 External amenity spaces are expected in development such as this and given the nature and density of the surrounding development it is not considered that the introduction of a terrace here would lead to an undue level of harm to the surrounding residential occupiers by way of noise and general disturbance.

5.0 Recommendation: Grant Conditional Planning Permission

DISCLAIMER

Decision route to be decided by nominated members on Monday the 11th May 2015. For further information please click [here](#)

Fruition Assets Limited
Mr Craig Henderson
7 Europa Studios
Victoria Road
London
NW10 6ND

Application Ref: **2014/7171/P**
Please ask for: **Jonathan McClue**
Telephone: 020 7974 **4908**

30 April 2015

DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Full Planning Permission Granted

Address:
15 Highgate Road
London
NW5 1QX

DECISION

Proposal:
Creation of roof terrace with associated balustrade at second floor level.

Drawing Nos: (15HR/) E/003; 004; 013, L/06 Rev D and P/002; 005; 006; 007.

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise



specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans (15HR/) E/003; 004; 013, L/06 Rev D and P/002; 005; 006; 007.

Reason: For the avoidance of doubt and in the interest of proper planning.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Noise and Licensing Enforcement Team, Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website

<http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 3 It is noted that conditions 9 and 10 of the original planning approval this development relates to (2011/3819/P) have not been implemented on site. The units shown on the drawings cannot be lawfully occupied until these conditions have been implemented.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

DRAFT

DECISION