



APPEAL BY:
Zapper Limited

AGAINST THE LONDON BOROUGH OF CAMDEN COUNCIL'S REFUSAL
TO GRANT PLANNING PERMISSION FOR:

The conversion of the existing flats above ground level, comprised of 3 x 1 bed and 1 x 2 bed units, into 1 x 1 bed and 2 x 2 bed units, erection of second floor rear infill extension, erection of third floor rear roof terrace, erection of roof extension, alterations to front and rear elevations, and alterations to roof of ground floor rear extension including new plant enclosure.

AT
280 Kilburn High Road, London, NW6 2BY

The London Borough of Camden Council's Reference: 2015/0696/P

WRITTEN REPRESENTATIONS: GROUNDS OF APPEAL

June 2014

RJS PLANNING

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1.0 INTRODUCTION

1.1 This statement has been prepared by RJS Planning, on behalf of Zapper Limited, in support of the appeal lodged against the refusal of planning application 2015/0696/P.

1.2 By way of background, the appeal application was submitted further to the refusal of planning application 2013/7833/P, which was also dismissed at appeal. To recap, the previous application proposed a fourth floor roof extension over the existing inverted butterfly roof, forming a gable end to the rear, but with a hipped roof to the front. The previous application also proposed a flat roofed second floor infill extension with a roof terrace above, projecting over half the depth of the extension. The previous application was refused under delegated authority on 23rd April 2014 for the following reasons:

- 1) *The proposed second and third floor rear extensions, by virtue of their height, bulk, mass and detailed design, would appear as overly dominant and incongruous additions detracting from the character and appearance of the host building and surrounding area. The proposal is therefore contrary to Policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and Policy DP24 (Securing high quality design) of the London Borough of Camden Local Development Framework Development Policies.*
- 2) *The proposed roof extension, by reason of its location, scale and detailed design would interrupt a line of unbroken roofscapes in this terrace of properties to the detriment of the wider 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 Policy DP24 (Securing high quality design) of the London Borough of Camden Local Development Framework Development Policies.*

1.3 The refusal was subsequently dismissed at appeal on 11th December 2014. A copy of the appeal decision and for clarity the 3D images of the previous application proposal are attached at **Appendices A & B**. In summary, the Inspector raised the following concerns:

- The second floor flat roofed infill extension would create a full width element at this level amongst a fairly consistent row of half width outriggers. The Inspector stated that a sympathetic addition could potentially integrate successfully within this space but that this was not achieved as the proposed set back would be too slight and due to the use of the timber cladding finish, which would fail to correlate with the building, which would draw attention to the high level addition and which would therefore detract from the character and appearance of the building (paragraph 6).
- The side walls to the roof terrace, although affording privacy to users, would give the impression of bulk as a solid structure at height and would thereby harm the character and appearance of the terrace. The vertical metal railings and door could avoid harm if finished with appropriate materials (paragraph 7).
- The Council Camden Planning Guidance of Design SPG suggests that mansard roofs are often the most appropriate form for an extension to a Victorian dwelling (paragraph 8). The proposed full width gabled roof addition would appear as a discordant feature, disrupting the roofline, with the timber cladding contrasting starkly with the brickwork (paragraph 9).

1.4 Following the appeal dismissal, the scheme was revised so as to overcome the Inspector's concerns. In comparison with the previously refused scheme, the main changes are as follows:

- The second floor rear infill extension is now of a mansard roof design with a dormer window and with the face of the extension sloping back beyond the existing outrigger, finished with slate tiles to match the existing roof.
- The walls to the side of the roof terrace have been replaced by panes of opalescent glass between the chimneys and rear walls.
- The roof extension now features a low-profile hipped roof to the rear, set back from the rear elevation of the existing building, with a concealed flat roof on top.

1.5 Notwithstanding the proposed changes, the Council refused the application on 16th June 2015 for the following reasons:

- 1) *The proposed roof extension, by reason of its location, scale, and detailed design would interrupt the unbroken roofline of the terrace to the detriment of the wider area, contrary to policies CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and Policy DP24 (Securing high quality design) of the London Borough of Camden Local Development Framework Development Policies.*
- 2) *The proposed second floor rear extensions, by virtue of its height, bulk and detailed design, would appear as an incongruous additions detracting from the character and appearance of the host building and the surrounding area. The proposal is therefore contrary to Policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and Policy DP24 (Securing high quality design) of the London Borough of Camden Local Development Framework Development 2010.*
- 3) *The proposed roof terrace, would have an unacceptable impact on the amenity in terms of overlooking and loss of privacy of both adjoining properties (Nos. 278 and 282 Kilburn High Road), contrary to policies 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.*

1.6 In summary, the Council do not consider that the changes to the second floor extension and roof extension would overcome the Inspector's concerns whilst the Council also consider that the removal of the walls to the side of the terrace would actually result in the proposed roof terrace overlooking the adjoining properties to an unacceptable degree. This grounds of appeal will address the central concerns raised within the Council's reasons for refusal, notably:

- Whether the proposed second and fourth floor roof extensions would be of detriment to the character and appearance of the existing building and the visual amenities of the locality in general; and
- Whether the proposed roof terrace would offer an unacceptable level of overlooking and loss of privacy to Nos. 278 & 282 Kilburn High Road to the detriment of their residential amenities.

1.7 For clarification, neither the Council, nor the previous Inspector, raised an objection to the principle of the development, to the impact of the proposed extensions on the amenities of the neighbouring properties, to the standard of accommodation proposed for the new units, to the associated external alterations to the front and rear elevations and the roof of the ground floor rear projection, or to matters of highways, waste and sustainability.

1.8 Additionally (and again), no objections were raised to the proposal by any neighbouring residents or any statutory consultees.

1.9 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-eastern side of Kilburn High Road and consists of a four storey terraced building with a parapet wall to the front and an inverted "butterfly" roof to the rear, concealed by the front parapet. The building comprises 4no. self-contained flats on the upper floors with a commercial A3 restaurant unit on the ground floor. The building features rear extensions with extract and ventilation ducts mounted on the rear walls and roof of the rear extensions. The previous ad hoc alterations and extensions and the siting of the ventilation ducting substantially harm the appearance of the existing building.

2.2 The site is not located within a Conservation Area or within an area designated as being of special character and neither the appeal building nor the surrounding buildings are listed.

2.3 The appeal application sought planning permission for various works to convert the existing residential units from 3 x 1 bed units and 1 x 2 bed units to 1 x 1 bed unit and 2 x 2 bed unit, with one of the two bedroom units being a split level maisonette over the third and fourth floors. To facilitate the conversion a second floor mansard style infill extension is proposed with a roof terrace over the extension, with opalescent glass panels to the sides between the chimneys and rear walls and with metal railings to the rear. A fourth floor hipped roof extension is also proposed over the existing inverted butterfly roof. The roof of the extension would rise above the existing roof of the building but would be concealed from eye level within the street scene by virtue of the existing front parapet wall.

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 & DP26 of the Camden Local Development Framework Development Policies.

3.2 Although it is not referred to within the reasons 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 187 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 and fourth 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.*

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.

Decision-taking

- 3.9 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

- 3.10 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.

Policy CS14

- 3.11 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

Policy DP24

- 3.12 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 states that proposals should consider the character, setting, context and the form and scale of existing and neighbouring buildings and the materials to be used.

Policy DP26

- 3.13 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 A) refers specifically to visual privacy and overlooking.

4.0 THE APPELLANTS CASE

Introduction

- 4.1 The Appellant’s case will focus on the central concerns of the reasons for refusal, notably whether the proposed second and fourth floor roof extensions would be of detriment to the character and appearance of the existing building and the visual amenities of the locality in general and whether the proposed roof terrace would offer an unacceptable level of overlooking and loss of privacy to Nos. 278 & 282 Kilburn High Road.
- 4.2 This case will demonstrate that the proposed extensions and roof terrace have been sufficiently revised so as to overcome the Inspector’s previous concerns in relation to the earlier application, whilst not leading to any additional unacceptable impacts. This case will set out that the works would make a positive contribution to the appearance of the existing building and would comply with the abovementioned policies.

The proposed roof extension

- 4.3 As touched upon in Section 1 above, the previously refused scheme proposed a roof extension with a gable end to the rear elevation, finished in timber cladding. The Inspector raised subsequent concern that the gabled roof addition would appear as a discordant feature, disrupting the roofline, with the timber cladding contrasting starkly with the brickwork (paragraph 9 of the appeal decision). The Inspector pointed out that the Council’s Camden Planning Guidance of Design SPG suggests that mansard roofs are often the most appropriate form for an extension to a Victorian dwelling (paragraph 8) **but did not stipulate that a roof extension was unacceptable in principle or that such a roof extension would**

need to be a mansard extension. The Council have raised an objection on the grounds that the roof extension would interrupt the unbroken roof line of the terrace to the detriment of the wider area.

4.4 It is unclear as to whether the Council suggest that the roof extension is unacceptable in principle as the existing terrace does not feature any roof extensions, or whether the Council simply raise a concern to the actual design and appearance of this proposed roof extension in the context of the unbroken rooflines. With regard to the matter of the unbroken roof lines, the Camden Planning Guidance 2011: CPG1 (Design) stipulates when roof extensions will be acceptable and unacceptable and states that roof extensions will be acceptable where:

- *There is an established form of roof addition or alteration to a terrace or group of similar buildings and where continuing the pattern of development would help to re-unite a group of buildings and townscape;*
- *Alterations are architecturally sympathetic to the age and character of the building and retain the overall integrity of the roof form;*
- *There are a variety of additions or alterations to roofs which create an established pattern and where further development of a similar form would not cause additional harm.*

4.5 The guidance further states that extensions will be unacceptable where:

- *There is an unbroken run of valley roofs;*
- *Complete terraces or groups of buildings have a roof line that is largely unimpaired by alterations or extensions, even when a proposal involves adding to the whole terrace or group as a co-ordinated design...*

4.6 In this instance it is appreciated that the existing terrace features an unbroken line of valley roofs and that, strictly speaking, the proposed roof extension would be contrary to the

guidance within CPG1, however CPG1 does not constitute adopted policy and serves the purpose of providing guidance only. The fact that a proposal does not fully comply with the guidance within CPG1 should not mean that the extension is unacceptable in principle. Indeed, although the Inspector made reference to the above design guidance, the Planning Inspector did not state that the roof extension would be unacceptable in principle. The Appellant maintains that proposals for roof extensions must be assessed having regard to the relevant adopted planning policy and in the context of the specific site circumstances. To recap, as set out in Section 3 above, the policies referred to within the reason for refusal do not state that roof extensions are unacceptable in principle or that planning permission will not be granted for roof extensions. In accordance with the planning policies, an assessment of a proposal such as a roof extension should come down to whether the extension would respect the character, setting, context and the form and scale of the existing and neighbouring buildings. It is clear that there will be instances where roof extensions can and will be considered to be acceptable to buildings which form part of a complete terrace or a group of buildings which have a roof line that is largely unimpaired by alterations or extensions.

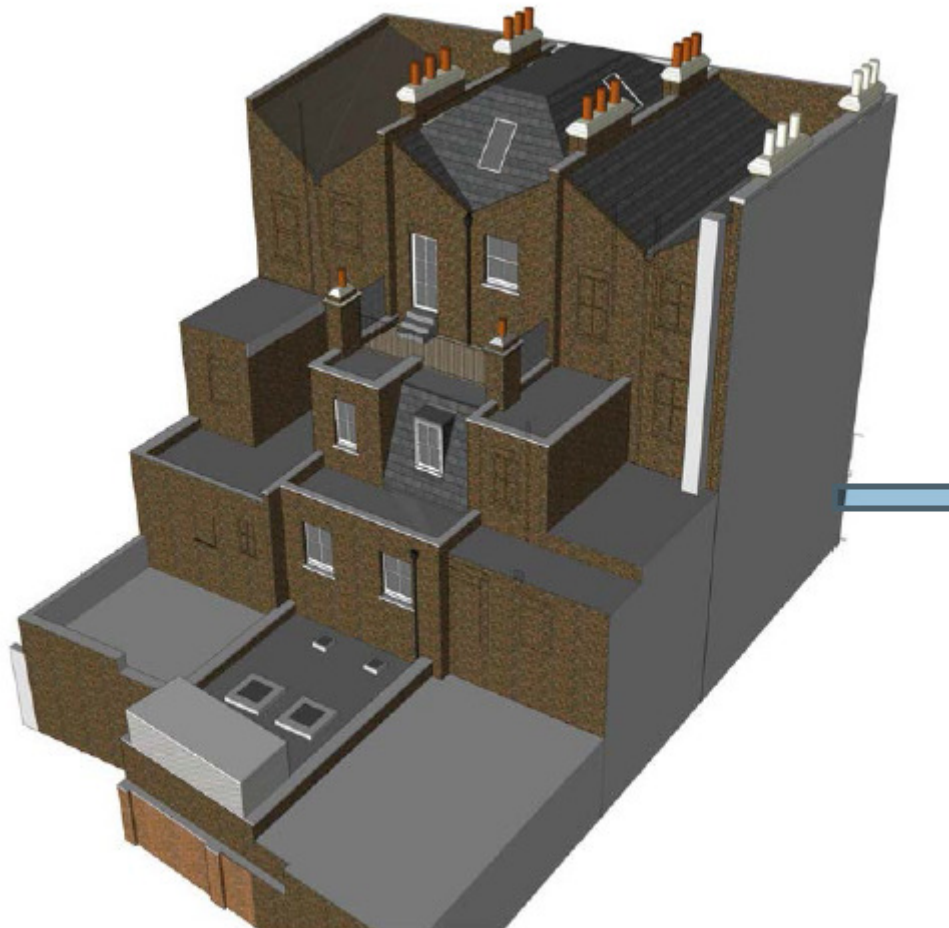
- 4.7 The Appellant has acknowledged the previous Inspector's policy preference for a lower profile roof extension than the previous gabled form and has accordingly provided a low profile hipped roof form set back from the rear elevation, all within the existing butterfly roof plan and without raising the party wall verges. The resulting extension would be concealed from the street by the tall front parapet and concealed from the sides by the existing party walls and chimneys. From the rear it would be low-profile rising within the volume of the existing butterfly form. The proposed hipped roof would have a far more subtle and discreet appearance, being set back from the rear elevation and between the existing butterfly roof and in a similar way that the extension would be concealed in views from the street scene to the front (due to the front parapet wall and the set back of the roof extension), the rear hipped roof elevation would also be concealed between the existing butterfly roof. The Design and Access Statement submitted with the application sets out the rationale behind the proposed roof extension design, noting that the proposed hipped roof would appear less prominent than a mansard roof, whilst not requiring any alteration of the existing brick parapet walls and chimneys. The proposed roof extension would sit discreetly between the existing brick parapet walls and chimneys and would relate well to the existing

butterfly roof, being hipped on all sides and finished with slate tiles to match. The roof extension would no longer appear discordant in the context of the existing roof and the materials would match the existing roof rather than contrasting with the existing materials as would have been the case with the timber cladding. The Appellant asserts that the proposed roof extension would not appear unduly prominent or visually intrusive within the locality and would not detract from the skyline or the appearance of the building and the terrace as a whole.

The proposed second floor extension

- 4.8 The Council's concern in this regard is that the second floor extension would appear as an incongruous addition to the building. It would appear that the Council's assessment has completely ignored the Inspector's comment in the previous appeal decision that a sympathetic addition could potentially integrate successfully within this space if set back from the existing outrigger and if finished in a matching material. In comparison with the previously refused scheme, the second floor rear infill extension is now of a mansard roof design with a dormer window and with the face of the extension sloping back beyond the existing outrigger, finished with slate tiles to match the existing roof. In addition, it is no longer proposed to build up the flank parapet walls. The revised second floor infill extension would again appear relatively discreet between the existing outriggers and would not appear unduly prominent or visually intrusive, being partly concealed between the existing rear projections. The extension would relate well to the existing building and would now correlate with the existing terrace and due to its proposed design and the use of materials, attention would not be drawn to the extension. Having regard to the proposed revisions it can no longer be reasonably considered that the second floor infill extension would detract from the character and appearance of the building.
- 4.9 In addition to the above points, the Appellant again maintains that the Council have failed to give due regard to the site context. The existing rear elevation of the terrace is not of a particularly high quality and has already been harmed to a substantial degree by unsightly ad hoc extensions and associated insensitive changes and alterations including the ventilation ducting. The proposed works, including the removal of the ductwork and the restoration of the front elevation would offer a significant improvement to the character and appearance of the building and the terrace. The indicative image below demonstrates that the proposed

extensions would form discreet and sympathetic additions which would enhance the appearance of the existing building. The extensions would not stand out or dominate the building and would not appear unduly prominent or visually intrusive from within the public realm to the rear. The removal of the unsightly extract ducts would also clearly improve the character and appearance of the building.



3D VIEW OF PROPOSED REAR ELEVATION

Loss of privacy

- 4.10 The Council's concern in this regard is that the proposed roof terrace above the second floor infill extension would result in an unacceptable level of overlooking to both neighbouring properties. It is unclear as to how the Council have reached this conclusion as the plans clearly demonstrate that opalescent glass privacy screens will be provided to the flanks of the terrace between the chimneys and rear walls. It is pointed out that further details of the privacy screen could be secured by way of condition and on the basis that the privacy

screens would prevent any significant degree of sideways overlooking of the neighbouring properties it is clear that the proposal would not result in an unacceptable loss of privacy or overlooking.

4.11 The Appellant acknowledges that a degree of oblique overlooking would occur to the rear of the terrace, however no objections were raised in this regard. Moreover, confusingly the informative attached to the decision notice even states that the concern could be overcome by appropriate screening. The Appellant maintains that the privacy screens to the side of the terrace would be sufficient and strongly disputes that the level of overlooking to the rear would result in a significant reduction in privacy. The terrace would not give rise to any overlooking of neighbouring windows, due to the privacy screens, but only a degree of indirect overlooking of the neighbouring lower level roofs. A level of overlooking such as this is not to be unexpected within a dense built up area such as this.

4.12 The Appellant asserts that the Council have failed to make an objective assessment of the actual demonstrable impact that the terrace would have and it is also clear that they have had no regard to the facts that privacy screens are proposed and that no objections have been raised by the owners / occupiers of any of the neighbouring properties. That the neighbouring residents haven't objected in this respect serves to demonstrate that the perceived impact of the overlooking would not be substantial. Mindful of the above, it is absolutely clear that the extension and terrace would not significantly or unreasonably harm the residential amenities of these neighbouring properties so as to warrant a reason for refusal.

5.0 CONCLUSION

5.1 The proposed works would be of no harm to the character or appearance of the building or the area in general. Whilst the Council suggest that the scales have tipped firmly against the proposal, the Council's objections are based on a subjective Officer opinion and are overly cautious and exaggerated, failing to have due regard to the previous appeal decision. The Appellant maintains that the proposals would be of no harm and that the benefits of the proposed works would clearly outweigh any purported harm.

- 5.2 The proposed extensions 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 extensions would not be contrary to national or local planning policy and for the above reasons it is politely requested that this appeal is allowed.