

Date: 3/09/15  
Your ref: APP/X5210/W/15/3130914  
Our ref: 2015/0696/P  
Contact: Raymond Yeung  
Direct line: 020 7974 4546  
Email: Raymond.Yeung@camden.gov.uk

**Advice and Consultation  
Planning and public protection**  
Culture & environment directorate  
London Borough of Camden  
Town Hall  
Argyle Street  
London  
WC1H 8EQ

Mr Neale Oliver  
The Planning Inspectorate  
3/05a Wing, Temple Quay House  
2 The Square  
Temple Quay  
Bristol  
BS1 6PN

Tel: 020 7974 5613  
Fax: 020 7974 1680  
[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

Dear Mr Oliver,

**Town and Country Planning Acts 1990 (as amended)  
Planning Appeal Statement (Authority)  
Appellant: Zapper Limited  
Site: 280 Kilburn High Road, London, NW6 2BY**

I write in connection with the above appeal against Council's refusal to grant planning permission for conversion of existing flats above ground floor level, comprised of 3 x1 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.

The Council's case is set out primarily in the delegated officer's report (ref: 2013/7833/P) that has already been sent with the questionnaire and is to be relied on as the principal Statement of Case. Copies of the relevant LDF policies and accompanying guidance were also sent with the appeal questionnaire.

In addition, Council would be grateful if the Inspector would consider the contents of this letter which includes confirmation of the status of policy and guidance, comments on the Appellant's grounds of appeal and further matters that the Council respectfully requests be considered without prejudice if the Inspector is minded to grant permission.

**Summary of the case**

The Applicant re-submitted an application following a refusal of 2013/7833/P of the same description for the Conversion of existing flats above ground floor level, comprised of 3 x1 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.

The application was, like the predecessor was refused as it was considered that 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 and that the 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. However, unlike the previous refusal which was also dismissed at appeal, there is an additional element of overlooking from the revised proposed rear terrace boundary.

23<sup>rd</sup> April 2014 – Refused - Conversion of existing flats above ground floor level, comprised of 3 x1 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 fourth floor roof extension, alterations to front and rear elevations, and alterations to roof of ground floor rear extension including new plant enclosure ref: 2013/7833/P

Refusal 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 2010.*
- 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 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.*

11th December 2014 – Dismissed Appeal for the above 2013/7833/P) ref: APP/X5210/A/14/2224856

16<sup>th</sup> June 2015 – Refused- Conversion of existing flats above ground floor level, comprised of 3 x1 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. Ref: 2015/0696/P

- 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 extension, 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 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.*

### **Status of Policies and Guidance**

The full text of the relevant policies was sent with the questionnaire documents.

On 8th November 2010 the Council **formally adopted** the Core Strategy and Development Policies documents of the Local Development Framework. These documents have been through an Examination in Public, and the appointed Inspector found the documents to be sound in a decision published on 13th September 2010. Therefore at the time of the determination of this appeal the Camden Core Strategy and Camden Development Policies were 'The Development Plan' for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004.

The relevant LDF policies as they relate to the reasons for refusal are:

CS14 Promoting high quality places and conserving our heritage

DP24 Securing high quality design

DP26 Managing the impact of development on occupiers and neighbours

In refusing the application the Council also refers to supporting documentation in Camden Planning Guidance 1 (Design) and Camden Planning Guidance 6 (Amenity)

The specific clauses most relevant to the proposal are as follows:

CPG1

*Roof Extension: 5.6 – 5.10, 5.15, 5.19, 5.20*

*Rear Extensions (including balconies): 4.6 – 4.15, 5.24*

CPG6

*Overlooking, privacy and outlook: 7.4 within page 37*

The Council's policies are recent and up to date and should be accorded full weight in accordance with paragraph 214 -216 of the NPPF. There are no material differences between the NPPF and the Council's policies in relation to this appeal.

### **Comments on the appellant's grounds of appeal**

The following statements in the Appellant's Grounds of Appeal, summarised in italics, are addressed subsequently as follows:

#### Roof extension

1. At Section 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. 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...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.*

Within the delegated report of this refused application under the roof extension paragraph, it clearly states;

*"...the principle of such roof extension which resides above the front parapet walls, breaking the rhythm of the butterfly roof design is not acceptable. Such revised design does not address what the inspector stated and it is still considered that the full width roof addition to the property over the inverted part of the butterfly roofline would appear as a most discordant feature drawing the eye from distance and not only would it disrupt the otherwise unbroken roofline, its height, position and design would detract significantly from the skyline and the appearance of the terrace as a whole. Given the wide extent of its visibility from the public realm, significant harm would arise."*

The Council consulted on the Camden Planning Guidance. It was approved for consultation by the Cabinet Member for Regeneration, Transport and Planning and as such CPG1 has been formally adopted. While the CPG is not included in whole within the Core Strategy or Development Policies, it is referred to in both. The supporting text for CS14 and DP24 both state that, "when assessing design, we will take into account government / CABI guidance By Design - Urban Design in the planning system: towards better practice and our own Camden Planning Guidance supplementary document".

Furthermore, Inspectors have referred to Camden Planning Guidance consistently in the assessment of proposed roof extensions (see list of relevant appeals below). Such should not be ignored, the inspector makes reference to it in the previous appeal mentioned above under paragraph 7 and 8;

*“The proposed roof extension would be hipped to the front where it would be concealed from view by the parapet. It would be gabled to the rear and highly visible from the access into the park which is alongside the terrace and from within the park itself. Guidance within CPG1 of the Camden Planning Guidance on Design (SPG), 2013 suggests that mansard roofs are often the most appropriate form for an extension to a Victorian dwelling. This does not preclude other roof forms.”*

*“Notwithstanding such advice, the full width roof addition to the appeal property over the inverted part of the butterfly roofline would appear as a most discordant feature drawing the eye from distance. This is despite being set back from the rear elevation. Not only would it disrupt the otherwise unbroken roofline, the timber cladding would contrast starkly with the brickwork highlighting its presence. Rather than being discreet and creating a contemporary sympathetic addition, its height, position and design would detract significantly from the skyline and the appearance of the terrace as a whole. Given the wide extent of its visibility from the public realm, significant harm would arise”.*

*The inspector concludes under paragraph 12 and 13;*

*“While there are aspects to commend the scheme, as it stands, I consider that the proposal would significantly detract from the character and appearance of the host property and the surrounding area. As such it would conflict with Policy CS14 of the Camden Core Strategy 2010-2015, Policy DP24 of the Camden Development Policies 2010-2025 and Paragraphs 56 and 58 of the Framework, all of which seek high quality design that respects local context and character. It would also be contrary to the advice in CPG1 of the SPG that a roof addition is likely to be unacceptable when there is an unbroken run of valley roofs. Whilst not prescriptive, the SPG has relevance as adopted guidance.”*

It is considered that the proposal would set a negative precedent that would encourage additional roof extensions resulting in a cumulative deterioration of the cohesiveness of the terrace. CPG1 states that, where extensions are considered to be acceptable in principle, mansard roof extensions are the preferred design (see CPG1 p. 5.15). As such future roof extensions would likely be of the mansard style. The current proposal would then be out of keeping with future roof extensions, ultimately resulting in a loss of visual cohesion which detracts from the visual appeal of such a terrace.

2. At paragraph 4.7, *“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 rear elevation of the building is also visible from Kilburn Grange Park including one of the principal means of access to and from the park from Kilburn High Road, not just the sport court to the rear. As such there will be as much, if not more, visual impact resulting from the proposal than if the rear elevation fronted a street.

## Second floor rear extension

3. At paragraph 4.9, *“...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 insensitive changes to the rear of the buildings in the terrace are almost exclusively limited to ground and first floor levels. It appears that there are no extensions at second floor level or above in the terrace of which the building is a part.

The second floor rear infill is slightly set back in the form of a pitched roof between the original half-width outriggers. This infill is provided with a natural slate finish. The proposal was accepted in principle by the inspector, however it is considered that the proposed materials and the reduction of size of such proposed extension is still insufficient.

The delegated report clearly states within the second floor rear extension paragraph that; *“The building is part of a run of 5 buildings with half width second floor rear outriggers. As such the proposal would disrupt the rhythm of the rear elevations. Full width second floor rear projections are not characteristic of the terrace as a whole. As such it is considered that the proposal would be bulky and not appear subservient to the building or terrace as a whole.”*

The inspector states under paragraph 6 within the above mentioned previous appeal;

*“A second floor flat roofed infill would create a full width element at this level amongst a fairly consistent row of half width outriggers. A sympathetic addition could potentially integrate successfully within this space and attempts have been made through the lower height, set back and use of contrasting materials to maintain the existing rhythm. However, this would not be satisfactorily achieved due to the set back being so slight and the timber clad finish. Although such materials would provide a contrast and visual break, it would fail to correlate with any aspect of the building. The timber finish would also draw attention to the high level addition. The overall effect would be to detract from the character and appearance of the building.”*

It appears although they have revised the materials, the set back is not sufficient enough through the current design and as such the council maintains its refusal and have not disregarded the inspector's comments. The overall effect would still detract from the character and appearance of the building.

The proposed extensions are considered to be contrary to the specific requirements of LDF Policy CS14 which requires, “development of the highest standard of design that respects local context and character” and LDF Policy DP24 which requires that all development respect the, “character, setting, context and the form and scale of neighbouring buildings” and “the character and proportions of the existing building”. Specifically, the proposal does not respect the fact that the buildings in the terrace do not have second floor infill extensions, do not have high level rear balconies or door openings, and do not have roof extensions. Furthermore, the design of the proposal is not considered to relate contextually to the style of the building.

The resubmitted design has been revised as follows, with reference to the clauses of the appeal dismissal stated above.

#### Loss of privacy

4. At paragraph 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.”*

As mentioned clearly within the delegated report under ‘Residential amenity: *“The flank of the roof terrace on both sides is proposed to have opalescent glass to either side of less than 1.8 metres in height, the height is considered as insufficient as it would not be tall enough to obscure direct overlooking towards the nearby third floor rear windows on the No.278 and 282 Kilburn High Road. The privacy of the users of the roof terrace would also be compromised.”*

5. At paragraph 4.12: *“That the neighbouring residents haven’t objected in this respect serves to demonstrate that the perceived impact of the overlooking would not be substantial.”*

The fact that the neighbours have not object to the planning application does not mean that the overlooking and loss of privacy to the neighbouring amenity is acceptable. It would have an unacceptable impact on the neighbouring amenity in terms of overlooking and loss of privacy of both adjoining properties either side, 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.

#### **Similar Proposals Recently Decided by Planning Inspectorate**

Other than the previously dismissed appeal mentioned above, with regard to roof extensions, there have been a number of recent appeal decisions in Camden similar to the current proposal.

#### *APP/X5210/A/13/2192010*

- 2012/5567/P (94 Queens Crescent) - Roof extension consisting of mansard roof to form additional 1x bedroom flat.
- Refused 13/12/2012.
- Appeal Dismissed 18/07/2013.
- The site is not located in a conservation area.
- The Inspector concluded that, *“the proposal would conflict with the objectives of Policy CS14 of the Camden Core Strategy 2010-2025 Local Development Framework (Core Strategy) and Policy DP24 of the Camden Development Policies 2010-2025 Local*

*Development Framework (Development Policies), which require development to be of the highest standard of design and respect local context and character. Furthermore, the proposal would conflict with the guidance within Section 5 of the Camden Planning Guidance (GPG) 'Design' relating to roof extensions. Whilst pre-dating the National Planning Policy Framework, these policies and guidance are broadly consistent with the core planning principles of high quality design and taking account of the different character of different areas".*

APP/X5210/A/13/2190271

- 2012/3119/P (59 Torriano Avenue) - Erection of a mansard roof extension to residential property (Class C3).
- Refused 06/08/2012.
- Appeal Dismissed 29/10/2013.
- The site is not located in a conservation area.
- The Inspector concluded that the proposal, *"is in conflict with Policy CS14 of the London Borough of Camden Local Development Framework Core Strategy 2010 and Policy DP24 of the London Borough of Camden Local Framework Development Policies 2010 – 2025, which seek to promote high quality places by requiring development of the highest standard of design that respect local context and character"*.

APP/X5210/A/12/2175149

- 2011/5759/P (3 – 5 Charles Place) - Erection of roof extension with dormer windows to front and rear, alterations to windows and doors on front, rear and side (north-west) elevations, creation of 2 x lightwells to side (north west) elevation all in connection with change of use to 6x 1-bedroom flats and 3x studio flats (Class C3).
- Refused 27/03/2012.
- Appeal Dismissed 08/11/2012.
- The site is not located in a conservation area.
- The Inspector commented that, *"the proposed works do not comprise a satisfactorily composed design in themselves and take little if any reference from the prevailing features and characteristics of the existing building"*.

## Conclusions

It is respectfully requested that the Inspector dismiss the appeal having regard to the entirety of the Council's submissions including the content of this letter.

Without prejudice and in the event that the appeal is allowed, the Inspector is respectfully requested to consider the imposition of conditions which are **attached as Appendix 1 to this letter**.

If any further clarification or submissions are required, please do not hesitate to contact the undersigned by the direct dial telephone number or email address quoted in this letter.

Yours faithfully,



**Raymond Yeung**  
Planning Officer  
Culture and Environment Directorate

**Appendices**

1. Planning Conditions

## Appendix 1 – Planning Conditions

Without prejudice and in the event that the appeal is allowed, the Inspector is respectfully requested to consider the imposition of the following conditions.

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 windows shall be timber sash and resemble, as closely as possible, in design the windows at the existing building. All other 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 plans or this decision notice.

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 approved plans:

NW6\_280KHR\_EX00, NW6\_280KHR\_EX01, NW6\_280KHR\_EX02, NW6\_280KHR\_EX03, NW6\_280KHR\_EX04, NW6\_280KHR\_EX05, NW6\_280KHR\_PA01B, NW6\_280KHR\_PA02B, NW6\_280KHR\_PA03B, NW6\_280KHR\_PA04B, NW6\_280KHR\_PA05B, NW6\_280KHR\_PA07B, Design & Access Statement.

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

4. Noise levels at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A).

Reason: To safeguard the amenities of the [adjoining] premises [and the area generally] in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

5. A 1.8 metre high screen across the entire depth of the roof terrace hereby approved shall be erected on the western boundary of the trafficable terrace area

prior to commencement of use of the roof terrace and shall be permanently retained.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.