

Date: 20<sup>th</sup> July 2016  
Your ref: APP/X5210/C/16/3150172 and  
APP/X5210/C/16/3150173  
Our ref: EN14/0602  
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Dear Planning Inspectorate,

**Re: Site at 21 Aberdare Gardens, London NW6 3AJ**

**Appeal by Ms Dilek Macit and Mr Marcus Von Bock Und Polach against the issue of an Enforcement Notice dated 31 March 2016. It instructs 1) Cease the use of the rear ground floor extension flat roof as a terrace; and 2) Completely remove the metal railings and decking; and 3) Make good any damage to the building as a result of the works.**

The Council's case for this appeal is largely set out in the officer's delegated report dated 10 June 2014 which was sent with the Questionnaire. The report recommends enforcement action within a period of 3 months to cease the use of the rear ground floor extension flat roof as a terrace, completely remove the metal railings and decking and make good any damage to the building as a result of the works. It sets out how the metal railings, decking and roof terrace are unacceptable on grounds of design, amenity and impact upon the South Hampstead Conservation Area. The report also details the site and surroundings, the site history and all consideration of the issues.

In addition to the information sent with the questionnaire I would be pleased if the Inspector could take into account the following information and comments before deciding the appeal.

The appeal by Ms Dilek Macit is made against the Enforcement Notice (ref: EN14/0602) under grounds (a), ground (c), ground (d), ground (f) and ground (g) only. The appeal by Mr Von Bock Und Polach is made against the Enforcement Notice (ref: EN14/0602) under the same grounds using the same appeal form. However, the LPA confirmed that the fee for Mr Von Bock und Polach APP/X5210/C/16/3150173 was not received within the specified period. Therefore the appeal on ground (a) has lapsed and the planning merits of the alleged development cannot be considered when deciding the appeal(s). The appeal by Mr Von Bock und Polach will proceed on grounds (c) (d) (f) & (g) only. It is noted that the appeal by Ms Dilek Macit APP/X5210/C/16/3150172 will however proceed on grounds (a) (c) (d) (f) & (g) as the fee was received.

## **Summary**

The site refers to a two storey (plus attic accommodation) semi-detached property on the north side of Aberdare Gardens. The property comprises three flats. The property is located in the South Hampstead conservation area and noted as making a positive contributor to the conservation area, but is not a listed building.

Unauthorised metal railings and decking forming a roof terrace have been installed to the flat roof of the rear ground floor extension. The enforcement notice was issued on the basis that the location and design of the works that have been carried out detract from the building on the site and the surrounding South Hampstead Conservation Area; the works fail to respect the established character, appearance and architectural quality of the site and surroundings. The size and location of the roof terrace, results in a detrimental impact on neighbouring amenity in terms of overlooking and potential for noise and disturbance. The appeal is made against the Enforcement Notice (ref: EN14/0602) under grounds (a), ground (c), ground (d), ground (f) and ground (g) only

## **Status of Policies and Guidance**

The London Borough of Camden Local Development Framework was formally adopted on the 8th November 2010. The policies of relevance to the appeal scheme as expressed in the reasons for refusal are:

- CS5 – Managing the impact of growth and development
- CS14 – Promoting high quality places and conserving our heritage
- DP24 – Securing high quality design
- DP25 – Conserving Camden’s heritage
- DP26 – Managing the impact of development on occupiers and neighbours

The Council also refers to supporting guidance documents. The Camden Planning Guidance was recently updated and following public consultation was approved by the Council in September 2013. In CPG 1 Design, Chapter 2 provides guidance for design excellence; Chapter 3 provides guidance for Heritage and Chapter 5 provides guidance for roof terraces and balconies. In CPG 6 Amenity, Chapter 7 provides guidance for overlooking, privacy and outlook.

With reference to the National Planning Policy Framework 2012, policies and guidance contained within Camden’s LDF 2010 are up to date and fully accord with paragraphs 214 – 216 (Annex 1). They should therefore be given substantial weight in the decision of this appeal. There are no material differences between the Council’s policies and the NPPF in relation to this appeal. The NPPF states that development should be refused if the proposed development conflicts with the local plan unless other material considerations indicate otherwise.

**Ground (a) Appeal:** Section 174(2) (a) states that planning permission should be granted for what is alleged in the notice

The appellants’ grounds of appeal can be summarised briefly as follows and are subsequently addressed in the paragraphs beneath.

## Appellant's Case

*The appellant states that 'We consider that the decking and railings preserve the character of the conservation area.' They state that 'the decking is not visible from any publicly accessible location and is also below the height of the parapet to the ground floor extension; as such the proposal has no impact upon the character and appearance of the conservation area or the building itself. Whilst the metal railings are higher than the parapet wall, they are also not visible from the street or other publicly accessible location.'*

*They also state that 'access to the roof of the ground floor extension has been available since the extension was erected, the door that provides access was provided in 2007.'*

*In relation to the effect on the amenity of adjoining properties, the appellants state that they 'contend that there is no material harm to the amenities of neighbouring occupiers' elaborating that 'whilst persons on the roof terrace would have clear views towards the gardens of numbers 19 and 23 Aberdare Gardens, these would be similar to those views that are already available from the existing windows of the appeal property and also from the lawful use of the single storey flat roof that the occupiers have enjoyed for many years.'*

## Council's response

The metal railings and decking which facilitate the roof terrace is at odds with the historic character of the building and is contrary to the Council's policies and CPG guidance.

## Design

The Council contends the appellants' view that the decking and railings preserve the character of the conservation area stating that the works are not visible from the street or other publicly accessible location.

The Council's design policies are aimed at achieving the highest standard of design in all developments whether visible from the street or not. The following considerations contained within policy DP24 are relevant to this site: development should consider the character, setting, context and the form and scale of neighbouring buildings, and the quality of materials to be used. Policy DP25 'Conserving Camden's Heritage' states that within conservation areas, the Council will only permit development that 'preserves and enhances' its established character and appearance.

The metal balustrade is not set back and surrounds the entire rear ground floor extension flat roof. The terrace is visible from surrounding properties. The addition of the balustrade and decking is considered unacceptable in principle. The incongruous addition of metal railings and decking to the building (which makes a positive contribution to the conservation area) would adversely affect the appearance of the rear elevation. The balustrades would be visible from properties at the rear of the site and are therefore considered harmful to the character of the host building, the terrace which the property forms a part and the Conservation Area.

Furthermore, Core strategy policy CS14 promotes high quality places by only granting planning permission for development of the highest standard of design that respects local context and character. Development Policy DP24, Paragraph 24.7 states that development should consider its contribution to the public realm and paragraph 24.12 requires careful consideration to be given to the characteristics of the site and the wider context to achieve high quality design which integrates into the surroundings.

### Amenity

In relation to the effect on the amenity of adjoining properties CPG6 Amenity states: “Development should be designed to protect the privacy of both new and existing dwellings to a reasonable degree. Spaces that are overlooked lack privacy. Therefore, new buildings, extensions, roof terraces, balconies and the location of new windows should be carefully designed to avoid overlooking. The degree of overlooking depends on the distance and the horizontal and vertical angles of view. The most sensitive areas to overlooking are:

- Living rooms;
- Bedrooms;
- Kitchens; and
- The part of a garden nearest to the house.”

The appellants state that ‘whilst persons on the roof terrace would have clear views towards the gardens of numbers 19 and 23 Aberdare Gardens, these would be similar to those views that are already available from the existing windows of the appeal property’. The Council contends this view and believes that the approval of a roof terrace would allow an increase of overlooking and general loss of privacy having direct views which go beyond those given from windows at the rear of the property. The direct views back towards the neighbouring properties (and their habitable room windows) due to the depth of the terrace, are considered to cause an unacceptable overlooking impact on the adjacent and surrounding existing residential units.

CPG1 Design guidance advises the dimensions of roof terraces should be sufficient to accommodate a terrace without adversely affecting the appearance of elevations of the property. Terraces should not result in overlooking of neighbouring properties, setbacks or possible use of screens should be used to prevent overlooking.

However, the Council are of the view that it would not be possible to address the loss of privacy of neighbouring occupiers by the installation of a privacy screens without having a further detrimental impact on the character and appearance of the host building and wider area. The screens would need to be 1.7m in height and installed along the length of each side of the terrace creating an incongruous addition to the building.

Due to the scale of the terrace and its close proximity to neighbouring occupiers there is also potential for levels of noise and disturbance from its use which would have a detrimental impact on the amenity of the neighbouring occupiers.

No loss of light would result from the terrace. It is not considered the terrace would result in security issues as the balustrade surrounds the edge of the rear extension flat roof and it would be unsafe to climb over to other properties. However, the use of

the roof terrace may generate excessive noise causing detrimental harm to neighbouring properties. Given the reasons above, the rear roof terrace is considered to be detrimental to the adjacent and surrounding residential properties, contrary to policies CS5 and DP26. In view of the above, the inappropriate design and location causing detrimental impact on neighbouring amenity are considered to be contrary to policy.

That said; there are a number of other similarly large rear extensions with flat roofs along this section of the street. However, properties nearby with similar rear roof terraces may be subject to a current enforcement investigation or may have been in place for over 4 years and are therefore immune from enforcement action. There are no records of planning permission being granted for the use of flat roofs at this level being used as roof terraces. Therefore, the unauthorised works at this property, if allowed, would set an unacceptable precedent.

The appellant also states that the previously approved extension (Ref: PWX0002564 and approved on 23/10/2000) did not have conditions attached which prevented the use of the roof as a terrace. This is correct. It is assumed that no condition was imposed because, there was no door shown leading to the roof: any door would have required planning permission. Planning permission was granted for the extension for the ground floor flat only to enjoy, and no door access was shown on then approved drawings which facilitated access safely onto this roof. If such a door had been shown then the Council would have considered such a condition to prevent the current situation arising.

The approved rear elevation of that application can be seen below in Figure 1.

Figure 1 – Proposed rear elevation of application PWX0002564, showing first floor with windows in place

In addition, by creating a door access onto this flat roof, the appellants have encroached onto their neighbour's extension. Even with permission from the

neighbour, this is not something the Council could have foreseen nor controlled through conditions at the time that this application was being assessed because this first floor flat was in separate ownership.

The appellant has stated that 'access to the roof of the ground floor extension has been available since the extension was erected, the door that provides access was provided in 2007.' However, the enforcement notice does not require the removal of the door which gives access to the flat roof. Planning permission would have been required for the insertion of a door at the first floor level giving access to the rear ground floor extension flat roof because the property does not benefit from permitted development rights due to it being a flat and not a single family dwelling. Council records show that no planning permission was sought and as such, the works to fit a door are considered to be unauthorised. The appellant states that the door was installed in 2007, resulting in the works being immune from enforcement action. However, no further information has been submitted to prove the works have occurred more than 4 years ago.

The Council has found an aerial photo showing the door in place in August 2011. The door shown has widened the window to form a double width with French doors. The French door also sits a fair distance above the roof terrace with no means of accessing the flat roof without jumping down or climbing back up. Figure 2 below shows the rear extension as built in 2011.

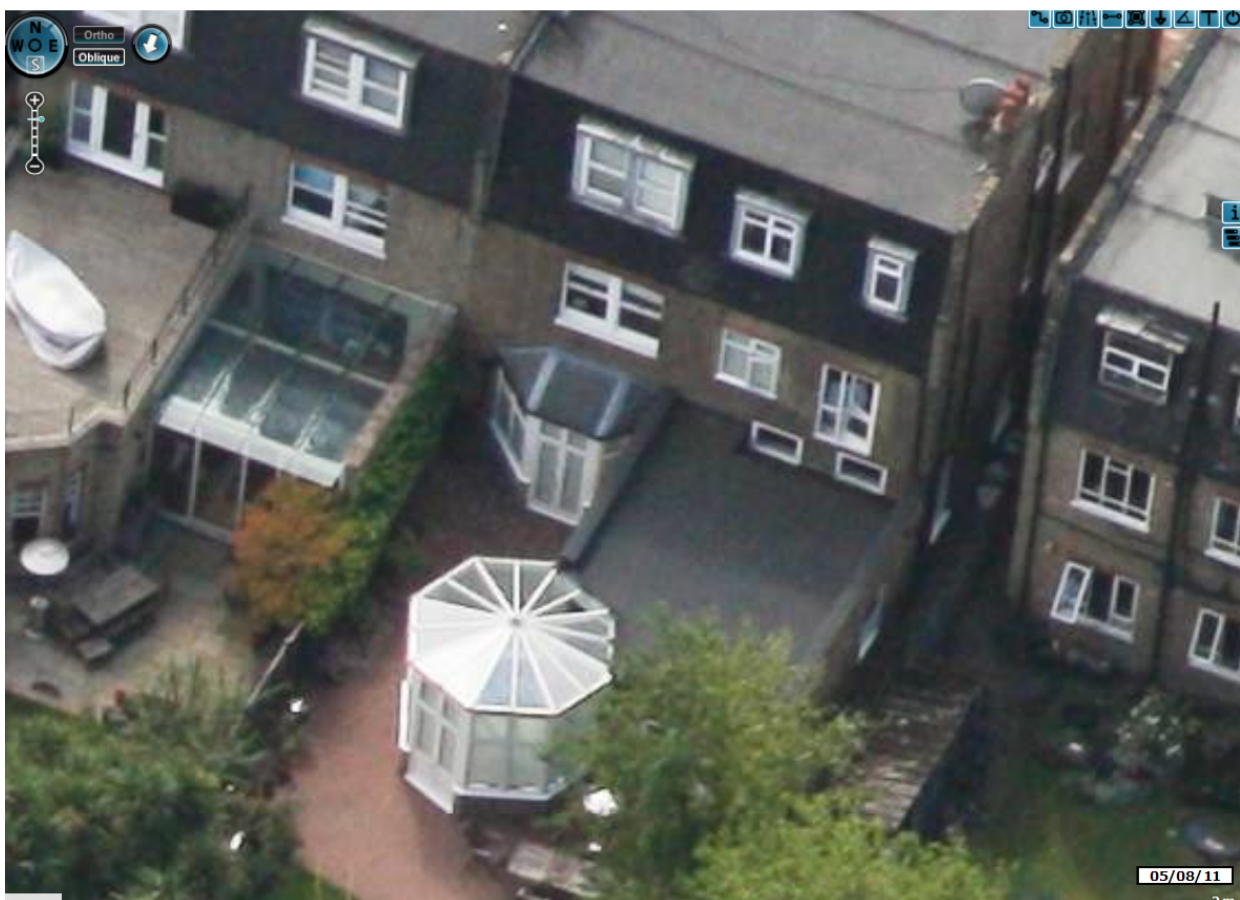


Figure 2: Rear extension built. Double door fitted and no safe means of accessing the flat roof.

The gap between the as approved flat roof of the extension and the window sill of the former window was a distance of 1.9m as shown in Figure 1. The door sill and the

flat roof looks to be slightly less, but could be between 0.9-1m in height. This would be a substantial distance to step down onto the flat roof. The deck supported by the RSJs may also have a step up to this door to make up the difference between the sill and the decked terrace area. Therefore, the Councils information would suggest that even a raised deck would be a substantial distance below this door sill in order to safely access the terrace.

Furthermore, having checked the Building Control records, there is no application which suggests that the dropping of the window sill and widening of this opening to form a door access has ever received their approval either.

The roof terrace, metal railings and decking, in terms of size, design and location are neither appropriate nor sympathetic to the character and appearance of the host and adjacent buildings and have a harmful impact on the appearance and character of the conservation area and street scape. The metal railings and decking, by reason of their visual prominence and incongruous addition to the flat roof of the rear ground floor extension, are considered to cause visual harm to the character and appearance of the host building and the wider South Hampstead Conservation Area, contrary to policies CS14 of the Camden Core Strategy and policies DP24 and DP25 of the Camden Development policies contained within the LDF. Furthermore, the roof terrace by reason of its size, position and proximity to neighbouring properties results in a detrimental impact on neighbouring amenity in terms of overlooking into adjacent properties and potential for noise and disturbance to nos. 19 and 23 Aberdare Gardens and surrounding residential units, thereby contrary to policy CS5 Camden Core Strategy and policy DP26 of the Camden Development policies contained within the LDF.

**Ground (c) Appeal:** Section 174(2)(c) states that an appeal can be made under ground (c) if there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").

The appellants' grounds of appeal can be summarised briefly as follows and are subsequently addressed in the paragraphs beneath.

#### Appellant's Case

*The Appellant states that, 'we consider that the decking does not materially affect the external appearance of the building having regard to Section 55(2)(a)(ii) of the Town and Country Planning Act 1990. Further, given that the owner could use the existing roof as a terrace with no restriction, and under the Town and Country Planning (General Permitted Development) Order could lay felt over the deck to 'finish off' the roof (as opposed to a platform/deck), we do not consider that this constitutes development.*

*Additionally it should be noted that the notice requires the "use of the rear ground floor extension flat roof as a terrace" to cease and the owners to make good any damage that has occurred as a result of the works. We contend that the door that provides access to the roof has been in place for over four years (it was inserted in 2007), is exempt from enforcement control and that the use of the roof is incidental to the enjoyment of the dwelling as such and has not been prevented by condition.*

*Thus the enforcement seeks to restrict rights which the owners are lawfully entitled to exercise.*

### Council's Case

Planning permission has never been sought for the use of the rear ground floor extension flat roof as a roof terrace facilitated by the installation of metal railings and decking. The appellant states that some works can take place under the Town and Country Planning (General Permitted Development) Order such as laying felt over the decking.

Permitted development rights allow for householders to perform certain types of work without needing to apply for planning permission. The appeal site refers to a two storey (plus attic accommodation) semi-detached property comprising of three flats. Permitted development rights which apply to many common projects for houses do not apply to flats, maisonettes or other buildings. Therefore, any development which takes place at the property requires consent from the local planning authority.

The Council considers that the installation of metal railings and decking is operational development requiring planning permission as defined by s.55 of the Town & Country Planning Act 1990 (T&CPA). Section 55 provides as follows:

Meaning of "development" and "new development":

*(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.*

**[F1(1A) For the purposes of this Act "building operations" includes—**

*(a) demolition of buildings;*

*(b) rebuilding;*

*(c) structural alterations of or additions to buildings; and*

*(d) other operations normally undertaken by a person carrying on business as a builder.]*

The installation of metal railings and decking is considered operational development requiring planning permission as defined by s55 of T&CPA. The Council routinely processes planning applications for roof terraces. The effect of the roof terrace, metal railings and decking on the building and whether it would serve to preserve or enhance the character or appearance of the conservation area should be considered.

The appellant also states that the 'enforcement seeks to restrict rights which the owners are lawfully entitled to exercise... and that the door that provides access to the roof has been in place for over four years and is therefore exempt from enforcement control, and that the use of the roof is incidental to the enjoyment of the dwelling.' The Councils Enforcement Notice instructs 1) Cease the use of the rear ground floor extension flat roof as a terrace; and 2) Completely remove the metal railings and decking; and 3) Make good any damage to the building as a result of the works.



The enforcement notice does not require the removal of the door which gives access to the flat roof. Planning permission would have been required for the insertion of a door at the first floor level giving access to the rear ground floor extension flat roof. Council records show that no planning permission was sought and as such, the works are unauthorised. The appellant states that the door was installed in 2007, resulting in the works being immune from enforcement action. This now seems to be substantiated by the Council's aerial photograph in figure 2.

The appellant also contends that by requiring the cessation of the use of the roof as a terrace, the notice restricts rights to which the owners are lawfully entitled to exercise. The key word in the appellant's case here is 'entitled', which is explored below.

Accessing a flat roof through a window to use the flat roof below as an "informal terrace" does not require planning permission and there are no controls that the Council can apply to control such an action. However, fitting a door to form a more formal access does require planning permission (where permitted development does not apply), and by doing so also requires a barrier to be fitted to prevent falls off the roof under the Building Regulations.

Therefore, even if such a door opening is more than four years old and has given the occupants of the first floor flat "an entitlement" to use that door to access the flat roof albeit informally; if no railing has been fitted to safely facilitate that entitlement of access to use that roof as a terrace then that entitlement has been exercised at odds with the Building Regulations and in theory, unlawfully with regards to that legislation. Furthermore, the roof is not likely to be used frequently as a terrace without easy access and safety railings. Therefore, as it stands, the impact on amenity to adjoining occupiers is significantly capped.

In planning terms, the door access may be more than 4 years old, but the safety railings are not, and therefore, the formal entitlement to use the flat roof safely as a terrace; and in accordance with planning law; has been undertaken without permission. Therefore, this entitlement to use the door is not in question in the Notice. However, the entitlement to use the flat roof as a formal terrace has been required to cease by the Notice. This is not unreasonable in the circumstances and does not restrict the rights of the appellant in this instance because they can still use the door.

The photograph shown in Figure 2 would suggest that the door has been in place since at least August 2011, and is therefore immune from enforcement action. However, this photo also shows, no railings, no decking, no RSJs and no means of accessing this flat roof surface safely (without jumping). Therefore, the Council suggests that it is not beyond the realms of possibility that if the access arrangements to the terrace were in this format in 2011, that there was no safe physical access provided onto this roof until such time that the railings and deck and means of access were fitted when the enforcement case was opened in June 2014.

Furthermore, the door could exist with a Juliet balcony in place to prevent falls off or preventing access to the roof, thereby meeting the Building Regulations and ceasing the safe use of the formal terrace and also meeting the requirements of the Notice.

Therefore, because permitted development rights do not extend to the flat concerned, the work to facilitate the safe use of the terrace are considered to require

planning permission, and without such permission it is the Council's opinion that a breach of planning control has taken place and no application has been approved for the works in question; namely the railings and associated decking.

**Ground (d) Appeal:** Section 174(2)(d) states that an appeal can be made under ground (d) at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.

The appellants' grounds of appeal can be summarised briefly as follows and are subsequently addressed in the paragraphs beneath.

### Appellant's Case

*The Appellant states that, 'We reserve our right at this stage to challenge on this ground. Our clients' solicitors have requested information off the Council which the Council initially refused to provide, but now appears to be treating as a Freedom of Information request and therefore the information will be provided by the end of this month.'*

*It is also stated that 'the decking and the metal railings may not benefit from the four year time limit set by section 171B(1) of the Town and Country Planning Act, we contend that it is too late for the Council to take action against the door that provides access to the roof.'*

### Council's Case

The Enforcement Notice alleges the following breaches of planning control: Creation of a roof terrace with associated installation of metal railings and decking on the rear ground floor extension flat roof.' The Councils Enforcement Notice instructs 1) Cease the use of the rear ground floor extension flat roof as a terrace; and 2) Completely remove the metal railings and decking; and 3) Make good any damage to the building as a result of the works.

The Enforcement Notice does not require the removal of the door which gives access to the flat roof. Planning permission would have been required for the insertion of a door at the first floor level giving access to the rear ground floor extension flat roof. Council records show that no planning permission was sought and as such, the works are unauthorised. The appellant states that the door was installed in 2007, resulting in the works being immune from enforcement action. The Councils evidence suggests that the works to create the door are more than 4 years old and appear in a photograph dated August 2011.

The issue with the door access and the use of the roof as being incidental to the enjoyment of the dwellinghouse has been commented upon at length under the Ground C appeal section. In summary, the property is a flat and not a single family dwellinghouse and therefore does not benefit from permitted development rights. Furthermore, the owners do not have an entitlement to use the flat roof as a formal terrace. They may however, subject to a burden of proof (yet to be presented), have an entitlement to use the door created giving access onto the flat roof.

The appellants have admitted that the decking and metal railings may not benefit from the four year time limit. Demonstrating it was not too late to take enforcement action against the matters stated in the notice.

The appellants requested information off the Council which was treated as a Freedom of Information request. The response to this request is provided below:

***'Environmental Information Regulations 2004 (EIR 2004)***

*Your request for information, received on 25 April 2016, has now been considered. You requested:*

***"Please send through the photographs as mentioned as being "on file" in the attached report."***

*This information has been withheld as it is subject to exceptions under the terms of the EIR 2004. The exceptions that apply are:*

***1. regulation 12(3)*** which states *"the information requested includes personal data of which the applicant is not the data subject, the personal data shall not be disclosed otherwise than in accordance with regulation 13."*

***regulation 13(1)*** states:

*(1) To the extent that the information requested includes personal data of which the applicant is not the data subject and as respects which either the first or second condition below is satisfied, a public authority shall not disclose the personal data.*

*(2) The first condition is—*

*(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene—*

*(i) any of the data protection principles;*

*Release of the photographs would allow the identification of the person who took them. This would cause distress and damage to the interests of this person. Release would therefore constitute a breach of the Data Protection Act 1998 and regulation 13 does not permit release. Consequently the information has been withheld.*

***2. regulation 12(5)f*** which states *"a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—*

*(f) the interests of the person who provided the information where that person—*

*(i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;*

*(ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and*

*(iii) has not consented to its disclosure*

*The person providing the photographs did so voluntarily and would have an expectation of confidentiality. Disclosure would violate that confidentiality and their privacy while being detrimental to the relationship with the neighbour who is in breach of planning controls.*

*The public interest for releasing this information is:*

- *The public would be better able to understand the breach of planning controls*

- *And would be able to identify who alerted the Council to this breach*

*The public interest for withholding this information is:*

- *It is not in the public interest to damage the interests of people who report planning breaches*

- *It is not in the public interest to deter people from reporting planning breaches by allowing them to be identified and thereby allowing a proliferation of such breaches*

- *It is not in the public interest to potentially damage neighbour relations or provide fuel for neighbour disputes*

*The Council considers that in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.*

*This letter constitutes a refusal notice.'*

**Ground (f) Appeal:** Section 174(2)(f) states that an appeal can be made under ground (f) if the steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.

The appellants' grounds of appeal can be summarised briefly as follows and are subsequently addressed in the paragraphs beneath.

#### Appellant's Case

*With regard to the ground (f) appeal, the Appellant states that 'if the metal railings are considered to cause material harm due to their position on the edge of the ground floor extension's parapet wall, then it would be possible to set this back further from the parapet wall.'*

*In relation to the increase in overlooking and loss of privacy to adjoining residents the appellants have suggested that 'a light weight wire 'trellis' could be erected above the railings on the side closest to 19 Aberdare Gardens and climbing plants trained to form a green screen.'*

#### Council's Case

The Council considers that each step required by the notice is clear and necessary to ensure that the property is returned to its lawful state.

The first requirement is to cease the use of the rear ground floor extension flat roof as a terrace. The second requirement is to completely remove the metal railings and decking. The third and final requirement is to make good any damage to the building as a result of the works.

The first requirement of the Notice is covered more thoroughly in Ground A and C above, and therefore this won't be commented upon here.

The appellant suggests that the second requirement of the notice is excessive and could be overcome with lesser steps such as setting back the metal railings and introducing a light wire trellis as a privacy screen.

Should the railings be set back from the parapet walls, the terrace would still be visible from surrounding properties. The addition of the balustrade and decking is considered unacceptable in principle. The incongruous addition of metal railings and decking to the building (which makes a positive contribution to the conservation area) would adversely affect the appearance of the rear elevation. Even if set back, the balustrades would be visible from properties at the rear of the site and are therefore considered harmful to the character of the host building, the terrace which the property forms a part and the Conservation Area.

Furthermore, even by reducing the depth of the terrace, views back into neighbouring residential properties in the host building would be afforded by the users of the terrace. These points can be seen in the photograph in Figure 3 below:



Figure 3 – By standing on the flat roof, the users of the terrace have views back into other floors of the host property and neighbouring windows also.

The Council believe that it would not be possible to address the loss of privacy of neighbouring occupiers by the installation of a privacy screens without having a detrimental impact on the character and appearance of the host building and wider area. The screens would need to be 1.7m in height and installed along the length of each side of the terrace creating an incongruous addition to the building and thereby causing further visual harm.

The appellants have also raised an option to remove the deck and RSJ supports underneath in order to replace with roofing felt under permitted development rights. The Council would consider any repair work to the roof as not requiring planning permission providing there was no increase in height of the roof or parapet.

The Council maintain the steps required for compliance with the Enforcement Notice are clear and reasonable given the circumstance. Lesser steps could not be implemented to overcome the breach in planning control at the subject property.

**Ground (g) Appeal:** Section 174(2)(g) states that an appeal can be made under ground (g) if the time given to comply with the notice is too short.

The appellants' grounds of appeal can be summarised briefly as follows and are subsequently addressed in the paragraphs beneath.

#### Appellant's Case

*With regard to the ground (g) appeal, the Appellant states that the time frame of three months allowed by the Notice is inadequate and that a 6 month period would be more suitable to carry out the works.*

#### Council's Case

The Council believes a three month period gives adequate time to undertake the required works, and notes the Appellant has not specified reasons as to why the works would take longer than 3 months. In the absence of any additional documentation or description demonstrating the works will exceed 3 months, the LPA contends the original compliance period stated in the Notice is an appropriate length of time to bring the property into conformity with planning controls.

#### **Conclusion:**

On the basis of information available and having regard to the entirety of the Council's submissions, including the content of this letter, the Inspector is respectfully requested to dismiss the appeal and uphold the issuing of the Council's Enforcement Notice without variation.

#### **Conditions**

The works have already been carried out. Conditions cannot be attached which would control the development or mitigate the harm that has been caused.

If any further clarification of the appeal submissions is required please do not hesitate to contact Cilpa Beehook on the above direct dial number or email address.

Yours sincerely,

Cilpa Beehook  
Planning Officer  
Appeals & Enforcement  
Supporting Communities Directorate