



APPEAL BY:
Mrs Victoria McNamara

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

Creation of rear roof terrace at first floor level with associated balustrade and replacement of window with door; replacement of all timber windows and door with uPVC windows and door to front and rear elevations at lower and upper ground floor levels (retrospective)

AT
16 Mackeson Road, London, NW3 2LT

London Borough of Camden Council's Reference: 2016/0906/P

WRITTEN REPRESENTATIONS: GROUNDS OF APPEAL

July 2016

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1.0 INTRODUCTION

- 1.1 This statement has been prepared by RJS Planning, on behalf of Mrs Victoria McNamara, in support of the appeal lodged against the refusal of planning application 2016/0906/P.
- 1.2 The application was received by the Council on 23rd March 2016 and sought planning permission for the retrospective creation of a rear roof terrace at first floor level with associated balustrade and replacement of a window with a door, replacement of all timber windows and door with uPVC windows and door to front and rear elevations at lower and upper ground floor levels at No. 16 Mackeson Road in London. The application was refused under delegated authority on 13th May 2016 for the following reasons:
1. *The replacement windows and doors, by reason of their material and detailed design, harm the appearance of the host building and the character and appearance of the Mansfield Conservation Area, contrary to policies CS5 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Core Strategy; and policies DP24 (Securing high quality design) and DP25 (Conserving Camdens' heritage) of the London Borough of Camden Local Development Framework Development Policies.*
 2. *The rear roof terrace, by reason of loss of privacy, has a detrimental impact on the amenity of neighbouring occupiers including nos. 14 and 16 Mackeson Road and 21 Lisburne Road, contrary to policy CS5 (managing the impact of growth and development) of the London borough of Camden Local Development 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.*
- 1.3 This grounds of appeal will address the central concerns raised within the Council's reasons for refusal, notably:
- Whether the replacement windows and doors, by reason of their material and detailed design, harm the appearance of the host building and the character and appearance of Mansfield Conservation Area, and;
 - Whether the rear roof terrace, has a detrimental impact on the amenity of neighbouring occupiers by reason of a loss of privacy.
- 1.4 It should be noted that the Council's description of the works is inaccurate, as the new windows **did not** replace timber windows but replaced 23 year old pvc units.
- 1.5 To set some context, this statement will first provide a description of both the appeal site 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



- 2.1 No. 16 is situated to the eastern side of Mackeson Road, within a terraced row of residential properties, some of which are single dwelling units, whilst others have been separated into ground floor and upper floor flats. The appeal site is located in the Mansfield Conservation Area, however the appeal dwelling and the neighbouring properties along Mackeson Road are not listed buildings.
- 2.2 The appeal dwelling is a ground floor flat within a mid-terraced three storey property that has been converted into 3 self-contained flats. The lower ground floor flat has access to the rear garden which it shares with the top floor flat.



Appeal Dwelling
Ground Floor Flat

3.0 THE PROPOSED DEVELOPMENT

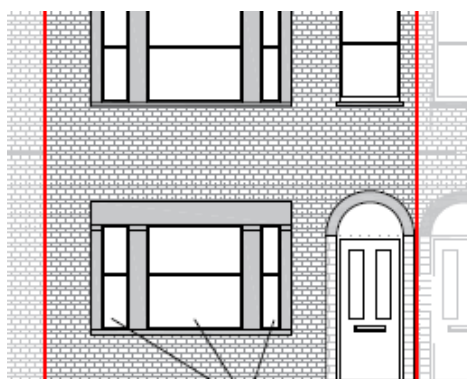
- 3.1 The appeal proposal sought planning permission for the retention of a rear roof terrace at first floor level with associated balustrade and replacement of a window with a door and replacement of all windows and doors with uPVC windows and doors to front and rear elevations at lower and upper ground floor levels at No. 16 Mackeson Road.
- 3.2 The rear roof terrace is above an existing flat roof extension and measures 1.5m in depth x 2.4m in width. An existing rear window has been removed and replaced with a doorway to provide safe access out onto the terrace area, which has been fitted with a metal balustrade surround to ensure users safety.



Rear Elevation



Proposed Rear Elevation



Front bay window replaced like-for-like PVCu to PVCu (white double glazed units)

Front Elevation

- 3.3 The uPVC windows that have been installed, simply replaced old PVC windows which had been present at the site for over 23 years and were therefore immune from enforcement action. The windows were replaced like for like with new uPVC versions and are therefore considered appropriate to the building.

4.0 RELEVANT PLANNING POLICY

4.1 The reasons for refusal refer to policies CS5 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Core Strategy; and policies DP24 (Securing high quality design), DP25 (Conserving Camdens' heritage) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

4.2 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)

4.3 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

4.4 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.

4.5 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

4.6 Paragraph 17 of the NPPF sets out 12 core land-use planning principles which should underpin both plan-making and decision taking. The second, fourth and tenth 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"*.

- *“Conserve heritage assets in a manner **appropriate to their significance**, so that they can be enjoyed for their contribution to the quality of life of this and future generations.”*

Requiring good design

- 4.7 Section 7 of the NPPF refers to design, however there are no specific policies or guidance relating to residential development. 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”.

- 4.8 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.

Conserving and enhancing the historic environment

- 4.9 Section 12 of the NPPF refers to the conservation and enhancement of the historic environment. Paragraph 131 sets out that that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, to the positive contribution that the conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness.
- 4.10 Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset that great weight should be given to the asset’s conservation. Paragraph 133 states that local planning authorities should refuse consent if a proposed development would lead to substantial harm to the significance of a designated heritage asset (including a Conservation Area).
- 4.11 The NPPF does not define “substantial harm” but it is widely accepted as including the total loss of a heritage asset, or fundamental compromise of its significance by means of extensive physical alterations, or inappropriate development within its setting. Such an impact can only be justified on the grounds that the harm is necessary to deliver important public benefits that outweigh the value of the heritage asset. In these terms it is absolutely clear that the application proposal will not result in “substantial harm” to the Conservation Area. Moreover, it must be pointed out that even the Council do not state within the reason for refusal that the proposal would lead to substantial harm to the historic significance of the Conservation Area.
- 4.12 Paragraph 134 of the NPPF sets out that “less than substantial harm” arises from proposals which include physical alterations or development within the setting, which on balance retain the fabric-authenticity and integrity of the heritage asset. The NPPF advises that such proposals should be “weighed against the public benefits of the proposal”. Such benefits include securing a sustainable future for the heritage asset.

Decision-taking

- 4.13 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

- 4.14 Policies CS5 and CS14 of the Core Strategy are referred to within the reasons for refusal.
- 4.15 Policy CS5 is a spatial policy which refers to “Managing the impact of growth and development”. Criterion d) makes reference to protecting and enhancing our environment and heritage and the amenity and quality of life of local communities.
- 4.16 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

- 4.17 Policies DP24, DP25 and DP26 of the Development Policies DPD are referred to within the reasons for refusal.
- 4.18 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 sets out that the proposals should consider the character, setting, context and the form and scale of existing and neighbouring buildings and the materials to be used.
- 4.19 Policy DP25 refers to “Conserving Camden’s heritage” and states that the Council will seek to maintain the character of Conservation Areas by taking account of Conservation Area statements, appraisals and management plans when assessing applications and by only permitting development that preserves and enhances the character and appearance of Conservation Areas.
- 4.20 Policy DP26 refers to “Managing the impact of development on occupiers and neighbours” and states that the Council seeks to sustainably manage growth so that its takes place in the most appropriate location and meets the needs while continuing to conserve and enhance the features that make Camden such an attractive place to live, work and visit. 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. The factors considered include visual privacy and overlooking; overshadowing and outlook; sunlight, daylight and artificial light levels; noise and vibration levels and odour, fumes and dust.

5.0 THE APPELLANT'S CASE

Introduction

5.1 The Appellant's case will focus on the central concerns of the reasons for refusal, notably

- (a) Whether the replacement windows and doors, by reason of their material and detailed design, harm the appearance of the host building and the character and appearance of Mansfield Conservation Area, and;
- (b) Whether the rear roof terrace, has a detrimental impact on the amenity of neighbouring occupiers by reason of a loss of privacy.

5.2 Background

By way of background to the case, the Appellant presumed that the proposed works did not require planning permission as the replacement windows and doors matched the previous fittings in regards to style and materials of construction. Also, the flat roofed area of the existing ground floor extension was already being used as an outdoor space for occupants of the associated flat and the installation of the balustrade railings were made purely on grounds of health and safety.

5.3 The construction work began in October 2015 and was completed in January 2016, with the Appellant not realising that planning permission was actually required. Had the Appellant, known this was necessary, an application would have been made prior to construction, however as the development and fenestration alterations are now in place, the following statement will seek to clarify why they are required and the reason for allowing them to be retained.

Design

5.4 The replacement windows and doors are appropriate to the host building and the character and appearance of Mansfield Conservation Area as they are a like for like replacement of the previous fittings and have been fitted in accordance with the CPG1 Design guidance which states that windows should be replaced with matching materials.

5.5 The windows to the front of the property do not result in the loss of an original architectural feature as they have been replaced with appropriately styled and detailed sash windows that do not appear out of place within the Conservation Area and therefore do not unacceptably impact on the character and appearance of the street scene as shown in the image below.



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- 5.6 All uPVC window and door fittings to the rear of the property have also replaced pre-existing PVC units and are therefore of a suitable quality and constructed from materials appropriate to the setting which are compatible with the existing property. However, when considering the impact of proposed works, it is also important that due consideration is given to a) where the impact will be perceived and b) what the actual or demonstrable impact would be. In this case the fenestration and terrace to the rear of the property are not viewable from the public realm and separation distances from nearby properties and existing boundary treatments including mature trees and shrubbery sufficiently mitigate any perceived impact.
- 5.7 The design of the terrace balustrading has been chosen to reflect similar development within close quarters of the appeal site, as the below image illustrates, the steel railings integrate well with the host property and do not appear out of character within this location. The Planning Officer's Report confirms:

"The rear terrace at upper ground floor level is considered acceptable in terms of its size, design and relationship to the host building. It has a metal balustrade that satisfies the minimum height of 1.1m."



Rear Elevation of Appeal Property

- 5.8 Given the terrace's location to the rear of the property, it is only visible from the surrounding properties and not from the street scene, therefore given its small size and discreet design the proposal has a limited impact upon the Conservation Area. There is also an existing large roof terrace at No. 18 Mackeson Road, as shown in the image above, which was approved under ref PE9800464R1, confirming that terraces are not uncharacteristic of the area.

- 5.9 To enable access to the terrace, a window has been replaced with a doorway and the Planning Officer's Report also confirms that this alteration is acceptable, although concerns have been raised regarding the door's materials of construction. However it should be noted that there is evidence of other properties that have changed their windows and doors to uPVC on the rear elevations, which is now a typical characteristic within the vicinity that does not impact upon the street scene or the Conservation Area.

Amenity

- 5.10 The Council have raised concerns regarding the impact on amenity of the rear roof terrace, although they recognise that balconies and terraces can provide valuable amenity space for flats that would otherwise have little or no private outdoor amenity space. We consider that the proposed development does not unduly impact on privacy levels at neighbouring properties as views into neighbouring gardens were already obtainable from the rear windows of the host property.
- 5.11 In reality, the flat roofed area had already been used for "sitting out" purposes by previous tenants of the property accessing the space via the existing rear window, the Appellant therefore sensibly took it upon herself to make the situation safe and installed a doorway within the rear elevation and railings to the perimeter of the flat roof. The terrace area projects just 1.5m from the rear elevation of the property and has a width of just 2.4m, providing only 3.6m² of outdoor amenity space which cannot therefore be used for large gatherings that would detrimentally impact upon neighbouring amenity through increased noise levels.
- 5.12 As previously stated, the Planning Officer's Report confirms that the roof terrace is acceptable in terms of its size, design and relationship to the building and as there are other terraces within the area, this type of development is not uncharacteristic. These roof terraces are not constructed as viewing points for overlooking neighbours properties at close quarters, but to provide an essential outdoor space to improve the amenity levels for occupants of buildings where outdoor areas are limited.



No. 18 Mackeson Road



No. 23 Lisburne Road

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- 5.13 As the below image illustrates the properties to the rear fronting Lisburne Road are a sufficient distance away with mature trees and shrubbery in between to ensure the retention of the roof terrace will not unduly impact upon living conditions within these dwellings and in particular at No. 21 directly opposite the appeal site. The proposal therefore does not give rise to increased overlooking into the rear gardens or habitable windows of properties on Lisburne Road.



View from roof terrace towards Lisburne Road

- 5.14 The Council have stated that the degree of overlooking depends on the distance and the horizontal and vertical angles of view, with the most sensitive areas to overlooking being living rooms, bedrooms, kitchens and the part of a garden nearest to the house. As the images below highlight views to the north and south are restricted by existing boundary treatments, metal stairways and mature trees and therefore the terrace does not give rise to the level of overlooking suggested by the Council.



View towards the north



View towards the south

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- 5.15 Concerns regarding the impact of the appeal site roof terrace on adjoining property No. 14 Mackeson Road to the south of the site, could be easily rectified if deemed necessary for the approval of the scheme by attaching a condition to discharge relating to the installation of a privacy panel, measuring approximately 1.5m wide x 1.8m high and constructed from materials which the Council deem acceptable. A privacy panel in this location would not introduce any overshadowing or reduce daylight or sunlight into the adjacent property given its positioning and orientation.



- Impact on the Conservation Area
- 5.16 The Planning Officer's Report confirms that the rear terrace at upper ground floor level, due to its location to the rear of the property has a limited impact on the Conservation Area, this should also be considered the case in relation to the alterations made to the fenestration on the rear elevation. The retention of the works at the appeal site would not appear prominent or visually intrusive within the street scene and have little impact on the setting of the Conservation Area, including the uPVC windows within the front elevation, which resemble other similar installations along Mackeson Road.
- 5.17 The proposed alterations do not affect to any substantial degree the front or rear elevations of the building and would not be of any demonstrable harm to the character and appearance of the building so as to warrant a refusal. It is maintained that the alterations are entirely acceptable to the property and respect the form and appearance of the existing building whilst making an efficient and effective use of the flat roof and improving the residential amenities of the occupiers of the appeal property. Neither the uPVC fenestration nor the roof terrace appear visually intrusive or prominent and by virtue of their siting have limited impact on the street scene and little impact on the public realm in general.
- 5.18 In summary the retention of the alterations at the appeal site would not have a detrimental impact on the visual or residential amenities of the building or the surrounding properties and they actually make a positive contribution to the appearance of the building, reflecting nearby renovation development and would be of no substantial harm to the host property, the terraced row or the Conservation Area.

6.0 CONCLUSION

- 6.1 The impact of the proposed roof terrace and alterations to the fenestration are negligible and they clearly sustain the significance of the Conservation Area and peoples' experience of it and it is strongly asserted that the significance and appreciation of the Conservation Area within the zone of influence of the proposal would not be compromised by the retention of the works. As set out above, the NPPF states that planning permission should be refused only if a proposed development would lead to substantial harm to the significance of a designated heritage asset (including a Conservation Area). The NPPF does not define "substantial harm" but it is widely accepted as including the total loss of a heritage asset or fundamental compromise of its significance by means of extensive physical alterations, or inappropriate development within its setting. It is absolutely clear that the retention of the appeal proposals will not result in substantial harm, or even less than substantial harm to the setting of the Conservation Area. It is acknowledged that the Council's policies seek to conserve and enhance heritage assets including the character, appearance and setting of Conservation Areas. However the National Planning Policy Framework states that heritage assets should be conserved in a manner appropriate to their significance. It is put forward that the works, by virtue of their limited impact on the street scene and the public realm, would at the very least conserve the character and appearance of the Conservation Area.
- 6.2 The retention of the roof terrace and the alterations to the fenestration would be of no harm to the character or appearance of the host property or neighbouring buildings or to the visual or residential amenities within the locality. We consider that the proposal both preserves and enhances the setting by reason of their quality design, modest size and scale and materials of construction. The Appellant understands why the Council may have concerns, however it is considered that the Council have adopted an overly cautious approach in appraising the design of the development and their actual limited impact upon the location and on the neighbouring residential amenity. The Appellant has no desire to gain permission for works that are not worthy of the existing building or the site and feels strongly that the proposed alterations make a positive addition to the appearance of the area whilst improving the living conditions and health and well-being of future occupants of the property.
- 6.3 However, should the Inspector have any concerns regarding the collective impact of the alterations in this location, it is respectfully requested that a split decision is issued to retain either the fenestration to the front and rear elevations, or the fenestration and roof terrace to the rear of the property, or the roof terrace alone if deemed more acceptable.
- 6.4 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 development to be retained would not be contrary to national or local planning policy and for the above reasons it is politely requested that this appeal is allowed.