

Delegated Report		Analysis sheet	Expiry Date:	23/08/2016
		N/A / attached	Consultation Expiry Date:	28/07/2016
Officer			Application Number(s)	
Gideon Whittingham			2016/3019/P	
Application Address			Drawing Numbers	
28 Lyndhurst Road London NW3 5PB			Refer to Decision Notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Erection of timber deck above storage units in rear garden and associated metal and glass balustrade (Retrospective) and installation of 1.8m screening all for use as a raised terrace (Class C3).				
Recommendation(s):		Full Planning Permission Refused and Warning of Enforcement Action to be Taken		
Application Type:	Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	30	No. of responses	02	No. of objections	02
Summary of consultation responses:	<p>Site notice begun: 07/07/2016 Press notice begun: 06/07/2016</p> <p>2 objections received from the occupiers of 20 Wedderburn Road and 22 Wedderburn Road regarding the following issues:</p> <ul style="list-style-type: none"> • Loss of Privacy • Increased Noise • Visual Intrusion • Conservation Area Character and Appearance Harmful Impact • Threat to the Longevity of Protected Mature Trees 					
CAAC/Local groups comments:	<p>The Fitzjohns/Netherhall CAAC were notified of this application, no response has been received to date.</p> <p>The Heath and Hampstead Society objected to the proposal:</p> <ol style="list-style-type: none"> 1. The decking-over of natural ground features, in this case grass, prevents or obstructs the absorption of rainwater into the subsoil, and damages the ability of tree roots to survive healthily. This is quite a large area of decking, cut around at least one big tree. It would present a poor precedent, and lead to further interference in subsoil water flows. 2. No Design/Access Statement is presented, contrary to your application policies. 3. The camouflage netting screen is quite an amusing and effective feature, but hardly permanent. Neighbours' privacy needs to be protected better than this. 					

Site Description

The subject site is a large, detached building consisting of a number of flats located within the Fitzjohn and Netherall Conservation Area. This building is not listed but is identified as being a positive contributor within the area.

The site is located on a slope with five storeys to the front (including lower ground level) and six storeys to the rear (including basement and lower ground level).

To the rear, a row of storage units are situated at a lower ground level to the rear garden, with their roofs at ground (garden) level.

An unauthorised decking area was constructed above the roof of these storage units and part of the garden to provide a terrace. As such this proposal was submitted as a result of the Enforcement Proceedings (see relevant history).

Relevant History

18/11/1988 – Granted (**8804632**) *Conversion into 6 self-contained flats including single storey rear extension and front dustbin enclosure.*

04/11/1994 – Granted (**9400868**) *Renewal of permission for the change of use and conversion of property from use as a hostel to six flats including the erection of a lower ground single storey rear extension and two terraces at the rear.*

07/02/1997 – Granted (**P9603165R1**) *Erection of a single storey conservatory extension at rear lower ground floor level.*

12/08/2014 – Granted subject to a Section 106 Agreement –(**2013/7377/P**) – *Replacement of existing rear conservatory with part 1-storey, part 2-storey rear infill extension, including enlargement of existing rear lightwell, addition of lightwell and removal of windows to east elevation, all associated with creating an additional 3 bedroom dwelling*

EN16/0107 – Creation of a terrace – pending determination of application 2016/3019/P

Relevant policies

National Planning Policy Framework 2012

London Plan 2016

LDF Core Strategy and Development Policies 2010

CS5 Managing the impact of growth and development

CS13 (Tackling climate change through promoting higher environmental standards)

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

Camden Planning Guidance 2011: CPG6 Amenity (Chapter 7)

Camden Planning Guidance 2015: CPG1 Design (Chapter 5 & 6)

Fitzjohn and Netherall Area Appraisal and Management Strategy 2001 – Page 24, 31, 34, 41 & 42

Assessment

1. Proposal:

1.1 The part retrospective application proposes:

- The retention of a timber decked terrace (108sqm) atop the end of the rear garden and existing storage units
- The retention of a 1.1m metal and glass balustrade along the perimeter of said terrace
- The installation of a 1.8m 'camouflage' screen along the perimeter of said terrace *[It should be noted this element is proposed and not in situ]*

1.2 During the assessment of the application, the applicant revised the scheme to include:

- A 1.8m 'camouflage' screen along the perimeter – It should be noted that in the arboricultural report this is labelled as 'live screening' provided in spaced planters
- An Arboriculture report

1.3 The main issues for consideration therefore are:

- Design and Impact on conservation area
- Residential amenity
- Trees

2. Design

2.1 Camden Planning Guidance states that the construction of garden buildings, including sheds, stand-alone green houses and other structures in rear gardens, can often have a significant impact upon the character of an area. The Council therefore seek to ensure the siting, location, scale and design of the proposed development has a minimal visual impact on, and is visually subordinate to, the host and surrounding gardens.

2.2 Along the south side of 28 Lyndhurst Road, namely Nos.23 – 30 (inc), the large gardens to the rear contribute greatly to the conservation areas landscape. Whilst a number of gardens feature incidental elements, it is considered, by virtue of their size, the gardens have retained their sense of openness. The rear gardens within this terrace are relatively large for the Borough and reflect the generous sizes and contribution which this affords, as described in the Fitzjohn and Netherall Area Appraisal and Management Strategy.

2.3 With regard to comparable development, it only appears that No.23 features a swimming pool in the rear garden, whilst no other properties along the southern side of Lyndhurst Road Nos.23 – 30 (inclusive), feature either garden stores, outbuildings or raised balconies. The application property is therefore an anomaly in this respect, with an unauthorised outbuilding providing storage (now immune from enforcement action), which has now become a raised terrace, surrounded with glass balustrading and screening at the end of the rear garden. Within this context, it is considered a pattern of raised terraces to the end of the rear gardens has not been adequately established.

2.4 In terms of siting and design, the raised terrace covers 108sqm of a garden which itself measures 434sqm (25%). A total of 28sqm would actually be the roof of the existing storage units, thereby retaining the usability of the garden space. Within its setting however, it is considered the raised terrace, by virtue of its position atop an outbuilding at the end of the garden, gradient at this part of the garden; and associated fortification (balustrading and screening), is the subject of clear and direct viewpoints.

2.5 Rising 1.4m above the adjacent rear boundary of 20 and 22 Wedderburn Road, the raised terrace, balustrading and screening would be visible from a significant portion of properties on the north side of Wedderburn Road. It is considered neither the surrounding mature trees, nor the boundary walls and associated screening would discreetly hide nor adequately compensate the surrounding properties and gardens in respect of their views of a widely visible, intrusive, overly dominant and incongruous feature.

2.6 It should be noted that the proposal would affect only the rear of the property, it would be largely unnoticed in the majority of public views and the effect on the townscape would not be as apparent as a change to the front of the property. However, the significance of the Conservation Area derives from the buildings and layout as a whole, regardless of whether particular elements are open to public view. Its significance does not therefore rely only on the elements that can readily be seen. Consequently, the proposal would result in a diminishing effect on the character of the Conservation Area.

2.7 In terms of materials, the use of timber decking and artificial grass is broadly considered sympathetic; however the evidently modern metal and glass balustrading, in addition to the proposed 'camouflage' screen is considered wholly unsympathetic and would result in a diminishing effect on the character of the CA.

2.8 Special regard has been attached to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

2.9 Within this context, it is considered the proposal would constitute an unduly prominent element which would detract from the open character of the application site and the wider surrounding area. The proposal would therefore neither preserve nor enhance the character or appearance of the site or the surrounding area and shall be refused for this reason.

3. Residential amenity

3.1 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, proposals which include roof terraces or balconies should be carefully designed to avoid overlooking. The degree of overlooking depends on the distance and the horizontal and vertical angles of view. To ensure privacy, there should normally be a minimum distance of 18m between the two closest points on each building (including balconies). Where this standard cannot be met we may require schemes to incorporate measures to ensure overlooking is reduced to an acceptable level.

3.2 In this respect, it is considered that no harm would be caused with regard to the amenity of the neighbouring properties or surrounding gardens in terms of privacy as a result of the measures incorporated following the schemes revision. It must be stressed however, this consideration is subject to the installation and retention of a 1.8m 'camouflage' screen along the perimeter of the raised terrace. Without said screening which would be secured by way of a condition, it is considered the raised terrace, essentially atop an outbuilding at the end of the garden, allows significant and overwhelming views of the gardens along Wedderburn Road and in particular the occupiers of Nos. 20 and 22 which would justify a reason for refusal on this issue alone.

3.3 It is considered that the provision of the raised terrace would not allow any greater noise disturbance as a result. The existing garden is a significant size and could hold a substantial gathering for example. Therefore the provision of a raised terrace incorporating the roof of the storage units would not allow the intensification of its use or capacity to disturb neighbours as a result of noise nuisance.

4. Trees

4.1 The application site contains a number of mature trees, particularly within the rear garden. A total of 5no. mature trees are located in the rear garden, namely 2no. Horse chestnut, a London plane, a lime all towards the end of the rear garden and an apple tree centrally located against the boundary.

4.2 Although no trees have been removed to make way for the proposal, a total of 2no. trees have been incorporated as part of the decked raised terrace, namely a mature Chestnut and London plane.

4.3 The method of construction used to install the decking is considered to be acceptable in arboricultural terms. Although the decking covers a large area of soil in which the trees are rooting, it is permeable so it should not prevent the trees from accessing water and it is likely that feeder roots are beyond the decking under the lawn.

4.4 The current form of the decking around the base of the trees however is not acceptable and could adversely affect the health of the trees in the future as there is not enough space to accommodate future growth. To overcome this acknowledged concern, Section 5.5 of the arboricultural report states that the decking is to be modified to accommodate future tree stem diameter increase. In mind of this, a condition would be attached to ensure this amendment is undertaken if the application were acceptable in all over respects.

4.5 As stated in paragraph 1.2 of this report, a discrepancy between the revised plans and arboricultural report is noted. Where the plans indicate a 1.8m 'camouflage' screen, Section 5.7 of the submitted arboricultural refers to living green screens to provide some degree of privacy to those in neighbouring properties. Should the details of the arboricultural report be sought, details, secured by condition, would be required of the planting, planters and irrigation methods to ensure the screens are sustainable. In addition, a condition would also be attached to ensure the retention of the living screens indefinitely and its replacement should it die/become unfit for purpose.

Recommendation:

- a) Refuse Planning Permission
- b) Authorise enforcement action

That the Borough solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

The Notice shall allege the following breach of planning control:

The unauthorised erection of a raised terrace and associated timber decking and metal and glass balustrading in the rear garden.

The Notice shall require within a period of 6 calendar months of the Notice taking effect:

- 1) Remove the unauthorised raised terrace and associated timber decking and metal and glass balustrading; and to make good any damage caused as a result of the works.

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE.

The unauthorised raised terrace, balustrading and screening located within the rear garden by reason of its scale, location and detailed design, would be overly dominant and appear as an incongruous form of development which would harm the character and appearance of the application site and the immediate and surrounding Fitzjohns and Netherhall Conservation 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) and DP25 (Conserving our Heritage) of the London Borough of Camden Local Development Framework Development Policies.