



Photo 13. Various dormers to the front of Fairhazel Gardens.



Photo 14 .Dormers and terraces at the rear of Gildhurst Terrace.

- 5.43 In conclusion the dormer and terrace as constructed will not cause harm to the character of the locality or loss of amenity to any adjoining property. The feature should be approved as built. Without prejudice, if this is not considered acceptable by the Inspector then it is suggested the structure and terrace should remain and the railings be set back inside the terrace as per the planning application.

- 2) *“Removal of the clay tile roof to the projecting bay at rear first floor level and creation of a brick balustrade to create an external balcony”.*

5.44 The approved scheme showed a pair of opening windows with a rail to prevent falling within an existing opening. As installed and in the second application the small monopitched roof has been removed and a shallow balcony created behind a brick parapet. See photo of rear elevation above. The balcony is extremely shallow, some three bricks deep. This precludes any significant external activity. The feature is modest extending only across half of the rear elevation. Aesthetically it matches the lines of the rear extension below. It still fills the previous opening (as the soldier courses above show) and matches the width of the window above. It will not cause loss of amenity to any adjoining property. The feature should be approved as built. Without prejudice, if this is not considered acceptable by the Inspector then the doors and parapet should remain and a Juliette balcony affixed to prevent egress.



Photo 15. View inside first floor “balcony” area.

3) *"Installation of a uPVC door installed at ground floor rear within the bay".*

5.45 The door unit that has been installed at "ground" level, above the single storey rear extension is pictured from the interior in the photograph below. This was originally to be a pair of large windows. The second planning application shows the two doors although there is now an additional glazing bar across the centre which is considered to be more in character with the original glazing of the building.



Photo 16. Interior shot of first floor door unit.

5.46 The door unit is timber as per the windows, not UPVC, and it is not clear why the material used is unacceptable.

5.47 It may be that this was assessed as UPVC when the windows were also assessed as UPVC, before the first enforcement notice was corrected, but this aspect was not corrected when the second Notice was issued. However when

considering this issue the Inspector is asked to have regard to the variety of window types and materials in the locality and in particular on the more sensitive front elevations See an example in the photograph below.

5.48 The Appellants submit that this requirement should be deleted from the Notice.



Photo 17. Showing variety of window types and materials.

Appeal under Ground (F) – The steps required to comply with the requirements of the Notice are excessive and lesser steps would overcome the objections.

- 5.49 Without prejudice to other Grounds, and in particular Ground (a) which will be pleaded separately through a Section 78 appeal as required, the Inspector will note that there are now three principal elements to the Enforcement Notice which will have to be examined separately. If there is no adverse affect on amenity, (contrary to the Council's allegations), then one or more elements may prove acceptable, be deleted from the Notice and or given planning permission, especially as an earlier scheme was permitted ref 2015/5564/P and represents the "fall back" position. Conversely, if there is an impact upon amenity then the Appellants would be prepared to amend or alter the element or elements of concern as demonstrated by the planning application subject of the appeal. Any such further alterations could be dealt with by conditions under a planning permission or by a variation of the Notice. **Therefore the steps required to comply with the requirements of the Notice are excessive and lesser steps would overcome the objections.**

GROUND G - THE TIME TO COMPLY IS TOO SHORT

Appeal under Ground (G) – That the time period to comply with the notice is too short.

- 5.50 Without prejudice to the other grounds of appeal the time limit for compliance of six months is inadequate. The Appellants are entitled to conclude that they will win their appeal. If they do not then contractors would have to be appointed and the works programmed in. Prior to any work starting the building would have to be scaffolded for its full height to enable the work to be carried out. In the event that the appeal under ground G succeeds then the Inspector has to consider the period for compliance and we would suggest that it be extended upon the face of the Notice to nine months.
- 5.51 In addition and as stated above the Appellant is entitled to proceed on the basis that the appeal(s) will be successful. He is therefore entitled to let flats to tenants. These tenants would be entitled to a minimum 6 months tenancy. The time allowed in the notice is too short and does not allow sufficient time for any tenants to be able to complete their tenancy and for the construction work required by the notice to be carried out. The requirements of the notice cannot be carried out whilst the tenants are occupying the flat(s). It would be reasonable to allow a period of time after the tenants have moved to enable the construction work to be carried out. A period of three months to undertake this work would be reasonable meaning the time allowed to comply with the notice should be extended to at least 9 months. **Therefore the time period to comply with the notice is too short.**

WITHOUT PREJUDICE CONDITIONS

- 5.52 Since the planning application is retrospective it is not envisaged that any further conditions are required unless the Inspector requires further work to be carried out.

6. CONCLUSIONS

- 6.1 The Council have approved similar alterations and extensions and these represent the legal “fall back” position for these appeals.
- 6.2 Nevertheless the Appellants, in submitting further planning application, have attempted to compromise with the Council.
- 6.3 These compromise proposals, above, are without prejudice to the acceptability of the works that the Inspector will see on the site visit.
- 6.4 We have examined all the detailed policies apply and none rule out , in principle, what is proposed. Indeed that conclusion is reinforced by the original permission. Small units of residential accommodation to a high standard are much encouraged. The principal, significant heritage asset is the front of the terrace and its location in a Conservation Area. Apart from the permitted rooflights the works proposed are on the side or rear and are relatively unobtrusive in terms of the heritage asset. The works carried out confirm to the Council’s detailed guidelines and do not result in loss of amenity. The alterations carried out are not harmful to the character of the locality, the building or local amenities.
- 6.5 The Inspector is respectfully requested to allow this appeal and confirm that the works are acceptable and grant permission. This can be a) as built, b) as proposed in the planning application or c) modified by planning condition and those alternatives would apply in whole or in part.
- 6.6 Given the above the requirements of the Enforcement Notice are excessive and the steps required to comply with the requirements of the Notice are excessive and lesser steps would overcome the objections.
- 6.7 If the Enforcement Notice is upheld then the time allowed to rectify the breach is insufficient. It would not allow tenants to complete their tenancy which could be for 6 months, and for the building works to be carried out. The time allowed should be extended to allow at least 9 months.

APPENDICES

- 1. OS Location Plan**
- 2. Approval Notice, application forms and plans ref 2015/5564**
- 3. Planning Officer's Report ref 2015/5564**
- 4. Extracts from The London Plan 2016**
- 5. Extracts from Camden Core Strategy LDF 2010**
- 6. Extracts from Camden Development Management Policies**
- 7. Camden Design Supplementary Planning Guidance**
- 8. Map of, and extracts from South Hampstead Conservation Area Statement 2011**