ENFORCEMENT NOTICE APPEAL

**94C COLLEGE PLACE, LONDON NW1 0DJ**

**STATEMENT OF FACTS**

# Introduction

1. This statement has been compiled by Jed Griffiths MA DipTP FRTPI on behalf of the appellants, Tom Kalinsky and Deborah Frances-White. The appeal is against an Enforcement Notice served by the London Borough of Camden on 15th March 2017 (Council reference EN16/0933). The Notice, a copy of which is attached, relates to development at Flat C, 94 College Place, London NW1 0DJ. The appellants are the occupiers of the flat.
2. The appeal site is located on the east side of College Place, a mid-nineteenth century terrace located in the Camden Town area of the Borough. It is a distinguished residential area, but is not in a Conservation Area, nor on the Local List maintained by the local planning authority.
3. The breach of planning control alleged by the Local Planning Authority is that an L-shaped rear roof extension has been erected without planning permission.

# The Facts

1. The appellants have resided at the appeal site for a number of years. On 30th July 2014, they obtained a full planning permission, with conditions, for the erection of a rear dormer roof extension, formation of a rear roof terrace and the installation of two roof lights on the front roof slope. Copies of the decision notice (Council reference 2014/1387/P) and the approved plans (AL\_14\_94cCOL\_001 Rev F) are attached.
2. Construction work on the extension commenced in the summer of 2014. In September 2014, the planning enforcement team at the London of Camden received a complaint that the works were not being built in accordance with the approved plans. An inspection of the site was undertaken in October 2017 by John Nicholls, the Council’s Principal Planning Enforcement Officer. In his view, the works were not in in accordance with the approved plans, in breach of condition 3 of the planning permission.
3. It is understood that the issues raised were not concerned with the scheme as a whole, but with the details of the roof construction. During the building works, the drawings had been misread, and the rear elevation, adjacent to Number 96, had been constructed as an L-shaped mansard with a 70 degree roof pitch, rather than a dormer within the existing roof profile. In addition, the new roof had been built just below the existing roof pitch, rather than 300mm below.
4. In order to rectify the position, the appellants applied for the variation of condition 3, and the approval of the development “as built.” The application (Council reference 2016/5873/P) was refused by the local planning authority on 26th January 2017. Copies of the decision notice and the submitted “as built” plans (AL\_14\_94cCOL\_001RevL) are attached.
5. Following the refusal to vary the original condition 3, the appellants and Absolute Lofts entered into a series of discussions with John Nicholls to try to find an acceptable solution to the matter. A fresh set of drawings was prepared by Absolute Lofts, proposing amendments to the scheme “as built”. These plans (Reference AL\_14\_94c\_COL\_001AA and AL\_14\_COL\_002AA) were sent to the Council on 30th March 2017.
6. On 12th April, an email was received by Absolute Lofts and the appellants from John Nicholls. This stated that, in his view, the “proposal does not go far enough to complying with the originally approved plans.” Having considered this response, the appellants intend to continue their negotiations with the Council to try find a mutually acceptable solution. At the same time, they felt they had no choice but to lodge this appeal, as the effective date on the Enforcement Notice is 27th April 2017.

# Grounds of Appeal

1. The appeal against the Enforcement Notice is made under Ground (a) pursuant to Regulation 5 of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002. The appellants believe that planning permission should be granted for the “as built” scheme, which is the subject of the Enforcement Notice. Alternatively, they consider that deemed planning permission should be granted for the amended scheme sent to the Council on 30th March. The grounds of appeal are set out below.
2. There is no dispute relating to **Reason (a)** of the Enforcement Notice. Development has taken place within the past four years.
3. In **Reason (b)**, the Council alleges that the roof extension would be harmful to the character and appearance of the host building and the wider terrace. This is highly questionable, especially in view of the fact that the Council had already granted planning permission for a roof extension. Thus, the principle of the development had been established. Moreover, the Council had granted planning permission for a similar type of development at 96 College Place (Council reference 2003/2790/P). In the same terrace, at No.82C, permissions had been granted for roof extensions.
4. The Council states that the roof extension is contrary to policy CS14 of the London Borough of Camden Local Development Framework Core Strategy. In particular, part (a) of the policy requires development of the highest standard of design that respects local context and character. As will be apparent from the site inspection, the development is of a high standard, finished externally in materials which match the prevailing slate roofs of the surrounding properties. The extension is to the rear of the host property, and therefore cannot be seen from College Place. It is visible from the rear of some of the properties to the east, in Royal College Street, but not from the public domain. The spaces between the two terraces are occupied by mature gardens, which soften the visual impact of any rear extensions.
5. In addition, the Council states in **Reason (b)** that the roof extension is contrary to policy DP24 of the London Borough of Camden Local Development Framework Development Policies document, which seeks to secure high quality design. Part (a) of the policy requires developments to consider the character, setting, context, and the form and scale of neighbouring buildings. Similarly, part (b) of the policy expects extensions to consider the character and properties of the existing building. As stated above, these requirements have been satisfied. The development is subordinate to the host property, and is to its rear.
6. The materials used in the development are of high quality. In particular, the use of slate roofing and cladding matches the general character of finishes in the surrounding terraces. Part (c) of policy DP24 is therefore satisfied.
7. The Council also claims in **Reason (b)** that the roof extension is contrary to policies G1 and D1 of the Camden Local Plan Submission Draft 2016. These policies can only be given limited weight in the determination of this appeal, because they have not yet been fully adopted by the Council. Nevertheless, the appellants consider that the development is in accordance with part (a) of policy G1, as it does make full use of the site. In agreeing to the principle of the development, the Council have inherently recognised this point.
8. Policy D1 is very similar to the existing policies CS14 and DP24 referred to above, and requires development to be of the highest architectural and urban design. As argued above, the extension satisfies these requirements, in particular parts (a), (b), (d), and (e) of policy D1.
9. **Reason (c)** of the Enforcement Notice concerns the alleged impact of the roof extension on the amenity of neighbouring residential properties. It is stated that the development is contrary to policy CS5 of the Local Development Framework Core Strategy. It is presumed that this statement refers to part (e) of the policy which states that the Council will protect the amenity of residents by making sure that the impact of developments on their occupiers and neighbours is fully considered. This is an intention, rather than a policy and it is difficult to envisage how the development itself is contrary to that statement.
10. The Council also refers to policy DP26 of the Local Development Framework Development Policies, which seeks to protect the quality of life of occupiers and neighbours. There are a number of factors to be considered, but three which are particularly relevant are (a), (b), and (c). In respect of these factors, there is no effect on the visual privacy of neighbouring properties. The roof garden area, which was approved as part of the original scheme, is bordered by a protective screen, thus eliminating any impact on neighbours. There is no overlooking from any other part of the development, no overshadowing, and no effect on outlook. Similarly, there is no harmful effect on sunlight, daylight, and artificial light levels. This is acknowledged in the officer’s report on the previous application (reference 2016/5873/P).
11. In part (h) of policy DP26, the Council also requires developments to provide an acceptable standard of accommodation in terms of internal arrangements. This is an important factor in this case, as any reduction in the external dimensions of the roof extension will have a disproportionate effect on the internal space available within. This is especially important in terms of the rear roof slope – the steeper this is, the less useable space there is in the interior bedroom area.
12. **Reason (c)** also refers to policies G1 and A1 of the Local Plan Submission Draft, which can only be given limited weight. Nevertheless, it is argued that the development does to some extent support policy G1 because it does make full use of its site. The scope of policy A1 is very similar to that of existing policies. As stated, there is no impact on the factors listed in parts (d) and (e) of the policy.
13. The Council does provide guidance on residential extensions in the document Camden Planning Guidance 1 Design. The appellants consider that the scheme complies with the general advice on extensions as set out in paragraphs 4.9 – 4.14 of the guidance. In particular, the choice of the slate roofing material fully complements the roofing material in the original building and in the terrace as a whole. It is a material which weathers well, as has been proven in this part of London for 150 years.
14. More detailed guidance on roofs, terraces and balconies is provided in Section 5 of the document. As the proposed and “as built” drawings show, the new roof has been built just under the existing ridge line, but not by 300mm. The new roof cannot be seen from the front of the property, however. In the more recent drawings, a lower roof line is shown.
15. The guidance also advises that there should “usually” be a 500mm gap between a new dormer and a party wall. Because of the overall shape of the extension, however, this has not been possible in the limited space between the rear projection and the party wall. In the view of the appellant, the mansard “as built” is aesthetically better than a dormer built in the existing roof pitch. Nevertheless, in the most recently provided plans, it is clear that a dormer could be constructed, within a reduced roof profile. The plans show a restoration of the original pitched roof and the party wall to No.96. Within this area, however, it is not possible to accommodate a reasonably-sized dormer at 500mm in from the party parapet wall. In the circumstances, the location of the dormer is reasonable.

# Conclusions

1. In the view of the appellants, the Council, in issuing this Enforcement Notice, is acting unreasonably. Following the refusal of the application to vary condition 3, the appellants have made every effort to negotiate with the Council’s Enforcement Team to try to find an effective solution. The effective date on the Enforcement Notice (27th April 2017) has triggered this appeal, and it is hoped that negotiations will be successful.
2. In summary, the main issue is not one of principle, but of “fact and degree” in terms of the differences between the extension as permitted and “as built”. The Inspector is respectfully asked to allow this appeal, and to grant deemed planning permission, either for the scheme “as built” or in the modified form submitted to the local planning authority and referred to in this statement.