

Delegated Report (Refusal)		Analysis sheet		Expiry Date:	15/09/2017
		N/A / attached		Consultation Expiry Date:	18/08/2017
Officer			Application Number(s)		
Raymond Yeung			2017/4181/P		
Application Address			Drawing Numbers		
5 Gayton Road LONDON NW3 1TX			Refer to Decision Notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Erection of replacement railings to flat roof of rear projection; creation of steps from rear flat roof to French doors of dormer and creation of roof terrace; demolition of rear chimney stack; installation of aluminium sliding doors and metal balustrade to rear dormer (Retrospective).					
Recommendation(s):		Refuse Planning Permission and Warning of Enforcement Action			
Application Type:		Full Planning Permission			

Conditions or Reasons for Refusal:	Refer to Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified		No. of responses	04	No. of objections	04
Summary of consultation responses:	Site notice displayed: 27/7/17 – 17/8/17					
	Press notice: 26/7/17 – 16/8/17					
	No. 6 (written by a third party), 7 and 8 Gayton Road objects					
	<ul style="list-style-type: none">Planning permission was not given for this structure and so to continue to build was clearly against local authority regulations.There is a history of permissions for similar applications being refused--- and so there has been no precedent for this sort of structure.As a conservation area this proves detrimental to the local environment as it is unsightly; a detriment to the visual amenities of the area.The railings and staircase are wholly inappropriate features within this sensitive location and do not preserve or enhance the character or appearance of the conservation area and no other properties in the terrace have similar structures.Invades the privacy of neighbours and use of terrace would have unacceptable impact on the amenity of neighbouring residents through overlooking, loss of privacy and potential noise disturbance.Not suited to a conservation area.The chimney stack should also be reinstated.					
	No.33 Spencer Walk objects					
	The roof terrace infringes on my right to privacy. It overlooks directly onto my courtyard. In built up areas privacy is valued and should be respected by all.					
CAAC/Local groups* comments: *Please Specify	Hampstead CAAC were consulted, but no comments received to date					
	Gayton Residents' Association					
	<ul style="list-style-type: none">The Owner/developer gained permission for a fence around the roof top in May 2016 on the basis that the railings were substantially completed more than four years before the date of the application. It is worth noting that this application was supported by a declaration from the owner in 2003 who reported occasional use of the roof terrace which was relatively difficult to access.The recent non-permitted work has dramatically improved access to the terrace by altering the glass balustrade and building steps down from the French doors. Easy access will inevitably increase usage of the terrace and reduce the amenities of neighbours.An application to establish a similar roof terrace in adjacent 6 Gayton Road was made in 2007 and refused on the grounds that the proposed roof terrace, by reason of its size and position, would result in an unacceptable					

	<p>loss of privacy to neighbouring properties and gardens, detrimental to their residential amenities. Subsequent appeal to the Planning</p> <ul style="list-style-type: none"> • Inspectorate in 2008 was also refused on similar grounds – people using the terrace would disconcertingly overlook neighbouring gardens and this overlooking would be likely to be more prolonged and more intrusive; and, bedrooms in adjacent properties would be subject to be excessive overlooking and noise. The Inspector concluded that although the proposed terrace would form an attractive asset for the owner, this would be at the expense of the living conditions of neighbours. This conclusion clearly establishes the responsibilities of owner/developers and the reasonable expectations of neighbours living in this terrace. • The present application would compromise the amenities of neighbours in Gayton Road and Spencer Walk which is situated to the rear of the property. Gayton Residents' Association is an established local amenity group which represents the interests of residents in Gayton Road & Crescent. We request that Camden Planning refuses this retrospective application on the grounds previously established by the Planning Inspectorate. This property is in the Conservation Area and the owner should be required to re-instate the original French doors, glazed balustrade and chimney stack with removal of the access steps
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Site Description

The application site is a terraced property on the northern side of Gayton Road. It is not listed but is situated within the Hampstead Conservation Area and is identified within the Hampstead Conservation Area Appraisal (adopted October 2001) as making a positive contribution to its character and appearance. The property is of three stories with semi-basement in gault brick with a canted bay window and decorative brickwork stringcourses and cornices. It has a pitched roof to both front and rear elevations, with a roof light on each slope.

Relevant History

2016/2797/P – Granted 20/5/16 for the Existing Lawful Development Certificate for installation of railings above flat roof of the rear wing

2015/7150/P – Granted on 24/4/16 for the Erection two-storey rear conservatory extension from basement to ground floor. Erection of rear roof extension with French doors and glazed balustrade. Alteration from ground floor door to window and creation of stair between the basement and the upper floors and associated balustrade to the rear. Addition of two new windows to bay window at basement level to the front.

2015/0181/P – Granted on 30/3/15 for Amalgamation of lower ground floor flat and upper floors as a single family dwellinghouse.

2013/4437/P – Granted on 20/9/13 for the Erection of sheer rear roof extension with French doors and glazed balustrade, in addition to replacement of windows on front and rear elevations of residential maisonette (Class C3)

2005/2659/P – application granted on 23/08/2005 for the conversion of building comprising of a 1-bedroom flat and a 2-bedroom maisonette into a single family dwellinghouse.

PW9902934 – application granted on 10/01/2000 for the erection of two single storey rear extensions to provide a conservatory and enlarge the bathroom of the basement flat

PW9702347R2 – application granted on 22/09/1997 for the erection of a single storey rear extension and retention of steps to the front basement area

8905290 – application granted on 09/08/1989 for the formation of new bin store, gas meter enclosure and planter behind the front boundary wall.

8804539 - application granted on 04/01/1989 for the erection of a glazed conservatory on the rear elevation and the installation of new sash windows on the front bay at semi-basement level and an enlarged sash window on the rear elevation at basement level.

8531 – application granted on 15/04/1970 for the conversion into three self-contained flats including the addition of an external W.C. and dormer window

7451 – application granted on 15/10/1969 for the conversion into 3 self-contained flats of 5, Gayton Road, Camden, including the addition of an external W.C. and Dormer window

34197 – Application granted on 21/07/1982 for the erection of a dormer window at the front.

4 Gayton Road

PWX0103921 – Erection of a front dormer window and creation of two rear roof terraces with associated steps and privacy screen. Refused 08/01/2002

Dismissed appeal: APP/X5210/A/02/1090924 dated 08/01/2002

6 Gayton Road

2007/4735/P - Creation of roof terrace on existing rear flat roof of 3 storey rear extension, involving installation of perimeter glass balustrades and staircase access from rear dormer, plus elevational alterations to rear roof dormer extension Refused dated 19/11/2007

Dismissed appeal: APP/X5210/A/08/2069775 dated 24/09/2008

Relevant policies

Camden Local Plan 2017

A1 (Managing the impact of development)

D1 (Design)

D2 (Heritage)

Camden Planning Guidance 2015/2011

CPG1 (Design) Chapter 4

CPG6 (Amenity) Chapter 7

Hampstead Conservation Area Statement 2001

The London Plan (2016)

NPPF 2012

Assessment

1.0 Proposal

1.1 The retrospective application is for;

- Installation of metal railings around all side above the flat roof of the two storey rear projection (facing No.6) following the removal of the existing railings
- The demolition of the rear chimney
- The addition of steps to the rear flat roof from the existing rear dormer
- The alteration of balustrade infill from glass to metal mesh finish

1.2 The recent application (ref: 2016/2797/P) for an existing Lawful Development Certificate was granted for installation of railings above flat roof of the rear wing. It did not establish the use of the roof as a terrace (i.e. it related to the physical manifestations of the terrace only).

2.0 Assessment

The main issues to be considered are;

- Character, Appearance, Design and impact on conservation area; and
- Amenity.

Principle, Character, Appearance, Design and impact on conservation area

2.1 The Council's design policies are aimed at achieving the highest standard of design in all developments. The following considerations contained within policies D1 and D2 are relevant to the application.

2.2 Policy D1 states that the Council will secure high quality design, requiring development that:

- respects local context and character;
- preserves or enhances the historic environment and heritage assets in accordance with;

2.3 Policy D2 Heritage:

- comprises details and materials that are of high quality and complement the local character;
- preserves strategic and local views;
- carefully integrates building services equipment.

2.4 The Council will resist development of poor design that fails to take the opportunities available for improving the character and quality of an area. Policy D2 (Heritage) states that the Council will preserve and enhance Camden's rich and diverse heritage assets including conservation areas.

Roof terrace

2.5 As mentioned above, there appears to be some history of refusals nearby on Gayton Road. 5 Gayton Road is second in a row of six identical terrace houses. The history suggests that the proposal would not be acceptable in principle and would harm the conservation area such use. None of the properties within the surrounding area have a roof terrace or an exit from the rear elevation onto the flat roof.

2.6 In 2002, 4 Gayton Road applied for permission (PWX0103921) for a roof terrace. The application was rejected and a subsequent appeal (APP/X5210/A/02/1090924 -See Appendix A) was also

dismissed. In the appeal decision the inspector says (on page 3 paragraph 16).

'(a) the proposed external stairway would partly appear in front of the windows in the house, creating an inelegant feature;

(b) the proposed rails and screen would introduce alien features and materials to this elevation of the building, not seen in its near neighbours

(c) this would be accentuated as and when the terraces were used and were filled with furniture, planters and other domestic paraphernalia;

(d) thus the appearance of the roof would be altered and it would not relate well to those on the other side;'

2.7 The above list by the inspector is considered directly relevant to this application.

2.8 In 2007, 6 Gayton Road applied for permission (2007/4735/P) for a roof terrace. The application was refused and a subsequent appeal (APP/X5210/A/08/2069775-See Appendix A) was also rejected. The delegated report states;

"The principle of not accepting terraces on the roof of the back-additions of the properties along this terrace has already been established in 2002, when an application for a similar terrace at no. 4 was refused and its subsequent appeal dismissed. The grounds of refusal were both: unacceptable impact on the appearance of the conservation area and unacceptable impact on the privacy of neighbours."

"The proposed roof terrace, by reason of its size and position, would result in an unacceptable loss of privacy to neighbouring properties and gardens, detrimental to their residential amenities, contrary to policy SD6 (Amenity for occupiers and neighbours) of the London Borough of Camden Replacement Unitary Development Plan 2006."

In the appeal decision the Inspector states (Page 2 paragraph 10):

'I have taken account of the other roof terraces or balconies which were drawn to my attention. It is not clear from observations if the area of flat roof at No 5 Gayton Road is used as a terrace as it is only partially enclosed and there are no other indications that it is used as such. Nevertheless, I do not consider that the existence of other terraces or balconies justify a form of development which I conclude will be harmful.'

2.9 The refusal of a roof terrace has already been established in 2002 and again in 2007 when applications for a similar terrace at no. 4 and no.6 were refused and their subsequent appeals dismissed. The grounds of refusal were an unacceptable impact on the appearance of the conservation area and an unacceptable impact on the privacy of neighbours.

2.10 CPG1 (Design) states in relation to balconies/terraces:

'5.23 Balconies and terraces can provide valuable amenity space for flats that would otherwise have little or no private exterior space. However, they can also cause nuisance to neighbours. Potential problems include overlooking and privacy, daylight, noise, light spillage and security.'

5.24 Balconies and terraces should form an integral element in the design of elevations. The key to whether a design is acceptable is the degree to which the balcony or terrace complements the elevation upon which it is to be located. Consideration should therefore be given to the following:

- detailed design to reduce the impact on the existing elevation;*
- careful choice of materials and colour to match the existing elevation;*
- possible use of setbacks to minimise overlooking – a balcony need not necessarily cover the*

entire available roof space;

- possible use of screens or planting to prevent overlooking of

habitable rooms or nearby gardens, without reducing daylight and sunlight or outlook; and

- need to avoid creating climbing opportunities for burglars.'

2.11 Policy H34 of the Hampstead Conservation Area Statement 2001 states:

'Care should be given to locating gardens so that they do not have a detrimental impact on the street scene, surrounding buildings or on the architectural quality of the building. They can be successfully concealed, for example behind parapet walls. The introduction of a roof terrace/garden should not result in an unreasonable amount of additional overlooking or impact on long views in particular. Roof terraces/gardens should not be located on mansard roofs.'

2.12 The railings in design terms are not set back nor are they concealed. They would also give rise to overlooking (explained below).

2.13 The proposal is considered to be unacceptable, and would not preserve the character and appearance of the conservation area. It would harm the host building and would be contrary with the guidance on design. The proposal would be contrary to Policies D1 and D2 of the Camden Local Plan 2017.

Removal of chimney

2.14 The applicant has stated that the chimney was structurally unsound and had to be removed; however, no supporting evidence has been submitted to confirm that this is the case. The removal of what is considered an attractive chimney stack is considered to be unacceptable and would not preserve the character or appearance of the conservation area.

Change of material of the windows and balustrading on the rear dormer

2.15 The change from timber to aluminium framing of the rear dormer, is considered to be simplistic approach to a modern development whilst maintaining the thinness of timber and would look similar to what was previously approved. However, the railings are unacceptable as they appear out-of-keeping to the host and surrounding buildings and would not preserve nor enhance the conservation area. The treatment is considered incongruous and jarring. The previously approved glass balustrade treatment is considered a much more acceptable solution as it would be transparent and more in keeping with the host and surrounding buildings.

Amenity

2.16 Policy A1 seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission to development that would not harm the amenity of neighbouring residents. This includes privacy, overlooking, outlook and implications on daylight and sunlight. CPG6 seeks for developments to be "designed to protect the privacy of both new and existing dwellings to a reasonable degree" and that the Council will "aim to minimise the impact of the loss of daylight caused by a development on the amenity of existing occupiers."

2.17 Policy A1 concerns managing the impact of development. The policy states that the Council will seek to protect the quality of life of occupiers and neighbours. The Council will:

- seek to ensure that the amenity of communities, occupiers and neighbours is protected;
- seek to ensure development contributes towards strong and successful communities by balancing the needs of development with the needs and characteristics of local areas and communities;

2.18 The Council will consider the following factors:

- visual privacy, outlook;
- sunlight, daylight and overshadowing;
- artificial lighting levels;

2.19 As part of the 2002 4 Gayton Road application refusal (appeal ref: PWX0103921) for a roof terrace, the Inspector states (Page 4 paragraph 18):

"...as I saw for myself, it is possible to see directly and at short distance into living rooms in the properties on either side from this roof. I consider that the extent and ease of intrusion and the consequent loss of privacy are wholly unacceptable. This would affect rooms that at present are not affected by any overlooking."

and on the same page paragraph 24;

"I conclude that the proposed roof terrace(s) would have a very harmful effect on privacy in the adjoining homes and gardens."

2.20 In 2007 at 6 Gayton Road, permission under 2007/4735/P was refused and the subsequent appeal (ref: APP/X5210/A/08/2069775) was dismissed. The inspector's report states (Page 2 paragraph 8):

"(Overlooking) would be intrusive and unreasonable and would have an unacceptable effect on the privacy of neighbours. The proximity of the neighbouring bedroom window at No 7 Gayton Road could expose its occupiers to an unacceptable degree of overlooking and noise and activity from the use of the proposed terrace which adds to my concerns."

2.21 The proposed development is also considered to materially introduce overlooking and loss of privacy following the facilitation of the roof terrace with new railings and steps leading out to it. The proposal would introduce overlooking directly into 6 Gayton Road's rear dormer and first floor windows and would materially harm their privacy. It would directly look into the habitable room windows of 4 Gayton Road's rear dormer and materially harm their privacy.

3.0 Recommendation

3.1 The proposal neither preserves nor enhances the character and appearance of the conservation area. The removal of chimney, erection of the railings, staircase and the metal balustrades on the dormer would all be incongruous and have an impact on the character and appearance on the otherwise uniform rear elevation with adjacent properties. The proposals would harm the design and appearance of the host property and would fail to preserve or enhance the character and appearance of the Hampstead Conservation Area and would therefore not meet the requirements of policies D1 and D2 of the Camden Local Plan. The terrace is considered to create overlooking into 4 and 6 Gayton Road's habitable windows contrary to policy A1 of the Camden Local Plan 2017.

3.2 a) Refuse planning permission and b) Authorise enforcement action

That the Head of Legal Services be instructed to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 as amended and officers be authorised in the event of noncompliance, to commence legal proceedings under Section 179 or other appropriate power and/or take direct action under Section 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 installation of railings above the flat roof of the two storey rear projection, the unauthorised installation of steps from the French doors of the dormer onto the flat roof of the two storey rear projection in order to use the flat roof of the rear two storey rear projection as a

roof terrace

- The unauthorised removal of the chimney stack which was to the side of the flat roof of the two storey rear projection facing 6 Gayton Road
- The unauthorised installation of metal mesh balustrade to the rear dormer

The Notice shall require within a period of 3 months of the Notice taking effect:

- The removal of railings from around the flat roof of the rear two storey projection and removal of stairs from the rear dormer window on to the flat roof of the two storey, rear projection.
- Reinstatement of the chimney which once stood to its original condition
- Removal of the metal mesh balustrade to the rear of the dormer.

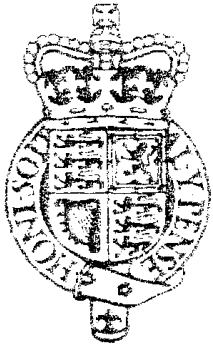
The Notice shall specify the reason why the Council considers it expedient to issue the notice:

The railings, staircase and use of the flat roof as a terrace harms the design and appearance of the host property, and fail to preserve or enhance the character and appearance of the Hampstead Conservation Area, contrary to policies D1 and D2 of the Camden Local Plan and Camden Planning Guidance 1 – Design.

The use of the flat roof of the two storey rear projection as a terrace results in a materially harmful loss of privacy from overlooking to the adjoining neighbours 4 and 6 Gayton Road contrary to policy A1 (Managing the impact of development) of the Camden Local Plan 2017 and Camden Planning Guidance 6 -Amenity.

Appendix A – Appeal decision

4 Gayton Road - PWX0103921 – Erection of a front dormer window and creation of two rear roof terraces with associated steps and privacy screen. Refused 08/01/2002- Dismissed appeal: APP/X5210/A/02/1090924 dated 08/01/2002



Appeal Decision **DISMISSED**

Site visit made on 24 September 2002

By C S Turner MA BA DipTP MRTPI DMS

An Inspector appointed by the First Secretary of State

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Date - 2 Oct 2002

Appeal Reference: APP/X5210/A/02/1090924

4 Gayton Road, London NW3

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is by Mr D Ambrose against the decision of Camden London Borough Council.
- The planning application (reference PWX0103921) that led to this appeal was dated 19 October 2001 and was refused by a notice dated 8 January 2002.
- The development proposed is the formation of a front dormer window and a rear terrace at roof level.

Summary of the decision: the appeal is dismissed.

Procedural Matters

1. It is clear that negotiations between the appellant's agents and the Council have been continuing since the refusal of planning permission that led to this appeal. Revised plans have been prepared. However, it is not my role to become involved in these negotiations. For me to do so could pre-empt or prejudice the Council's decision on any resubmitted scheme. Furthermore, I have no way of knowing what the views of other interested persons may be on the revised plans. Therefore, my decision relates to the scheme and drawings that were refused by the Council.
2. As I discovered at the start of my visit to the site, I had been sent copies of revised plans as part of the appeal documentation and had no copy of the plans that the Council had refused. However, I was supplied with copies of the appeal plans during my visit to the site and these were agreed as the correct ones by the representatives of the Council and the appellant. It is on these plans that my decision will be based.
3. It appears to me that the dormer at the front of the building has been installed in a manner that corresponds with the appeal plans. At the back, the situation is more complicated because, although work has been undertaken, it appears to me to be in accord with revised plans rather than with the refused plans. Nevertheless, because of the dormer I take the view that the development has started. I am therefore treating the appeal as if it arose from an application to allow the retention of the development made under Section 73(2) (A) of the Town and Country Planning Act 1990. This will not affect the outcome of the appeal, which will be based on the planning merits of the appeal proposals.
4. The appeal site is in the Hampstead Conservation Area. Section 72 of the 1990 Planning (Listed Buildings and Conservation Areas) Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

11. As the Council's committee report demonstrates and acknowledges, dormers are common on this side of Gayton Road, and for this reason the Council does not object to a dormer at this site in principle. However, the scale and design of dormers vary greatly along the street, with only a minority of properties having dormers as large as the one that has been installed at the appeal site. Many of the larger dormers were built and/or permitted many years ago. The Council takes the view that the larger dormers cannot and should not become the norm now that the area is a conservation area and the Council's policies on roof alterations have been adopted. In my view this approach has merit. Most of the recently installed dormers and all of the original ones are smaller in scale and of a design that is more in keeping with the houses of which they are part.
12. The dormer that has been installed on the front of the appeal premises measures 2.75 metres internally. It fills most of the width of the roof, with relatively little space on either side between it and the partition walls. Whilst it is similar in scale to the adjacent dormer at number 5 (and is, if anything, a better design), it is entirely out of keeping with the two smaller, more appropriate and original dormers on the other side at number 3. In my view its scale and design are inappropriate and harm the appearance of this building, the terrace and the street scene. Compared with the roof before the addition of the dormer (plain, with no front additions) it does not preserve or enhance the appearance of the conservation area.
13. Whilst I understand the extent to which the dormer adds light and space to the bedroom it serves and accept that its removal would involve considerable disruption, these considerations do not outweigh the important public interest involved in preserving the character and appearance of the conservation area.
14. I conclude that retaining the dormer that has been installed at the front of the building would harm the appearance of the conservation area. Its retention would therefore fail to comply with either the legal requirement in Section 72 of the Listed Buildings and Conservation Areas Act, nor would it accord with the UDP conservation area policy.
15. As to the impact of the appeal proposals at the back of the building, I emphasise that my assessment relates to what is shown on the appeal plans, rather than to what has been built (upon which I make no comment). Here the situation is a little different in that these alterations would not be seen from any street or public vantage point, although they are visible over a wider area. I therefore also regard this as a prominent and sensitive location.
16. Five aspects of the proposal as shown on the appeal plans cause me concern in as far as the proposals impact on the appearance of the building and the conservation area:
 - (a) the proposed external stairway would partly appear in front of one of the windows in the house, creating an unbalanced and inelegant feature;
 - (b) the proposed rails and privacy screen would introduce alien features and materials to this elevation of the building, not seen in its near neighbours;
 - (c) this would be accentuated as and when the terraces were used and were filled with furniture, planters and other domestic paraphernalia;
 - (d) thus the appearance of the roof would be altered and it would not relate well to those on either side;
 - (e) the windows would not match the existing windows in the house below, although it may be this was already the case. (It is not clear how the terrace would be accessed in the appeal plans and the addition of a door might make this matter worse).

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Conclusions

25. For the reasons given above and having regard to all the other matters raised, I conclude that the appeal should be dismissed. I have taken into account the extensive quotations from government guidance relied on by the appellant but in my view these do not overcome or outweigh the difficulties identified above.

Formal Decision

26. Accordingly, in exercise of the powers transferred to me, I dismiss the appeal.

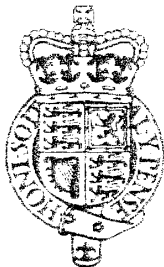
Information

27. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

C.S. Turner

INSPECTOR

**6 Gayton Road - 2007/4735/P - Refused dated 19/11/2007- Dismissed
appeal: APP/X5210/A/08/2069775 dated 24/09/2008**



Appeal Decision *DISMISSED*

Site visit made on 24 September 2002

By C S Turner MA BA DipTP MRTPI DMS

An Inspector appointed by the First Secretary of State

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Date -- 2 OCT 2002

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1. It is clear that negotiations between the appellant's agents and the Council have been continuing since the refusal of planning permission that led to this appeal. Revised plans have been prepared. However, it is not my role to become involved in these negotiations. For me to do so could pre-empt or prejudice the Council's decision on any resubmitted scheme. Furthermore, I have no way of knowing what the views of other interested persons may be on the revised plans. Therefore, my decision relates to the scheme and drawings that were refused by the Council.
2. As I discovered at the start of my visit to the site, I had been sent copies of revised plans as part of the appeal documentation and had no copy of the plans that the Council had refused. However, I was supplied with copies of the appeal plans during my visit to the site and these were agreed as the correct ones by the representatives of the Council and the appellant. It is on these plans that my decision will be based.
3. It appears to me that the dormer at the front of the building has been installed in a manner that corresponds with the appeal plans. At the back, the situation is more complicated because, although work has been undertaken, it appears to me to be in accord with revised plans rather than with the refused plans. Nevertheless, because of the dormer I take the view that the development has started. I am therefore treating the appeal as if it arose from an application to allow the retention of the development made under Section 73(2) (A) of the Town and Country Planning Act 1990. This will not affect the outcome of the appeal, which will be based on the planning merits of the appeal proposals.
4. The appeal site is in the Hampstead Conservation Area. Section 72 of the 1990 Planning (Listed Buildings and Conservation Areas) Act requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

Main Issues

5. I consider that the main issues in the appeal are:
 - (a) the impact that the alterations to the building (front and back) would have on the character and appearance of the conservation area;
 - (b) the effect the proposed roof terrace(s) would have on privacy in the adjoining homes and gardens.

Planning Policy

6. Section 54A of the 1990 Town and Country Planning Act says that planning applications and appeals should be determined in accordance with the development plan for the area unless there are material considerations that indicate otherwise. For the purposes of this appeal, the development plan is the London Borough of Camden Unitary Development Plan (UDP) adopted in 2000.
7. The UDP says that developments should not have an adverse impact on the amenity of the surrounding area. Developments should protect or improve the physical environment, including Camden's living conditions and its visual amenity. High standards of design are encouraged. In assessing the impact of development, the extent of any loss of privacy will be taken into account, together with the degree of visual intrusion. Inappropriate alterations and extensions at roof level will be resisted. Regard will be had to the prominence of the roof concerned, the characteristics of the roof and those of neighbouring buildings (in terms of shape, design, materials and any traditional features), the integrity of terraces and the proportions and architectural treatment of the building and the relationship to the original style and materials of other buildings in the vicinity. Development in conservation areas is also to preserve or enhance their special character or appearance.
8. In addition the Council has also produced supplementary planning guidance on Roof Alterations and Extensions. The Council says this has been adopted after public consultation and it therefore carries weight in appeals. It gives detailed advice on the design and acceptability of dormer windows. Similarly the Council's guidance on Balconies and Terraces gives detailed advice on this topic. It says that balconies and terraces should not be introduced where they would result in an unreasonable amount of additional overlooking of neighbouring properties or where they would have an adverse effect on the townscape or the character of the building. This guidance is being revised but, in my opinion, the substance of the consultation draft remains similar to the adopted version.
9. The Council has also supplied me with its Hampstead Conservation Area Statement and a committee report on roof alterations in Gayton Road. These documents contain detailed and factual information that forms part of the background to this appeal

Reasoning

Conservation Area Considerations

10. As far as the alterations at the front are concerned, this is a reasonably prominent roof to the extent that it is visible from the street both in front of the building and from further afield. The appeal site is part of a terrace and, although the design of roofs is not consistent along the street, the integrity of the street scene is a consideration. The appellant emphasises the pairing of numbers 4 and 5 but the property is also part of a longer terrace.

11. As the Council's committee report demonstrates and acknowledges, dormers are common on this side of Gayton Road, and for this reason the Council does not object to a dormer at this site in principle. However, the scale and design of dormers vary greatly along the street, with only a minority of properties having dormers as large as the one that has been installed at the appeal site. Many of the larger dormers were built and/or permitted many years ago. The Council takes the view that the larger dormers cannot and should not become the norm now that the area is a conservation area and the Council's policies on roof alterations have been adopted. In my view this approach has merit. Most of the recently installed dormers and all of the original ones are smaller in scale and of a design that is more in keeping with the houses of which they are part.
12. The dormer that has been installed on the front of the appeal premises measures 2.75 metres internally. It fills most of the width of the roof, with relatively little space on either side between it and the partition walls. Whilst it is similar in scale to the adjacent dormer at number 5 (and is, if anything, a better design), it is entirely out of keeping with the two smaller, more appropriate and original dormers on the other side at number 3. In my view its scale and design are inappropriate and harm the appearance of this building, the terrace and the street scene. Compared with the roof before the addition of the dormer (plain, with no front additions) it does not preserve or enhance the appearance of the conservation area.
13. Whilst I understand the extent to which the dormer adds light and space to the bedroom it serves and accept that its removal would involve considerable disruption, these considerations do not outweigh the important public interest involved in preserving the character and appearance of the conservation area.
14. I conclude that retaining the dormer that has been installed at the front of the building would harm the appearance of the conservation area. Its retention would therefore fail to comply with either the legal requirement in Section 72 of the Listed Buildings and Conservation Areas Act, nor would it accord with the UDP conservation area policy.
15. As to the impact of the appeal proposals at the back of the building, I emphasise that my assessment relates to what is shown on the appeal plans, rather than to what has been built (upon which I make no comment). Here the situation is a little different in that these alterations would not be seen from any street or public vantage point, although they are visible over a wider area. I therefore also regard this as a prominent and sensitive location.
16. Five aspects of the proposal as shown on the appeal plans cause me concern in as far as the proposals impact on the appearance of the building and the conservation area:
 - (a) the proposed external stairway would partly appear in front of one of the windows in the house, creating an unbalanced and inelegant feature;
 - (b) the proposed rails and privacy screen would introduce alien features and materials to this elevation of the building, not seen in its near neighbours;
 - (c) this would be accentuated as and when the terraces were used and were filled with furniture, planters and other domestic paraphernalia;
 - (d) thus the appearance of the roof would be altered and it would not relate well to those on either side;
 - (e) the windows would not match the existing windows in the house below, although it may be this was already the case. (It is not clear how the terrace would be accessed in the appeal plans and the addition of a door might make this matter worse).

17. Therefore, I also conclude that the appeal proposals at the back of the house would harm the appearance of the conservation area. They would also fail to comply with the legal requirement in Section 72 of the Listed Buildings and Conservation Areas Act and neither would they be in accord with the UDP.

Privacy Considerations

18. At the back of the property the appeal proposals show a (linked) external terrace at two levels. Of these, the lower terrace has more impact on privacy in the surrounding properties. It would be constructed on the flat roof of the protruding rear wing of the building. As I saw for myself, it is possible to see directly and at short distance into living room windows in the properties on either side from this roof. I consider that the extent and ease of intrusion and the consequent loss of privacy are wholly unacceptable. This would affect rooms that at the present are not affected by any overlooking.
19. I note that the appeal proposals include some screening, at least as far as number 5 is concerned. To be effective, such screening would have to be extensive. All that I feel it is necessary to say is that the more effective the screening, the more intrusive and harmful to the appearance of the conservation area it would be. I therefore consider that the possibility of screening being incorporated in the proposals would not overcome the problems I have identified.
20. In my view the loss of privacy occasioned by the appeal proposals would be unacceptable on both sides of the appeal site but it would be greatest in relation to number 5. Although the occupants at number 5 have not written to me, they did object at the time of the planning application. I do not know, therefore, whether their objection has been resolved. In any event, I attach no weight to the absence of an objection.
21. In addition to loss of privacy in the adjoining homes there would also be some intrusion in the gardens below the proposed terraces. In my view this is less severe, though still material, because it would be necessary to come to the edge of the terrace and look over to see into the nearest gardens. Nevertheless, there would be a loss of privacy and an even greater *sense* of intrusion below.
22. I acknowledge that the harm caused by the higher of the two terraces, from where it is not possible to see into any neighbouring windows, would be less than is the case with the lower terrace.
23. Whilst on the flat roof at the back of the appeal premises, I was able to look along the back of the terrace for some distance. There may be some form of terrace at the far end of the street but there is nothing comparable to the appeal proposal close to the appeal site. Although there is a rudimentary rail around the flat roof at number 5, there is no apparent easy access to this roof and no evidence of its use for relaxation. The appeal proposal would therefore harm the environment and amenity in this part of the terrace and introduce a feature that other occupants of upper floors may wish to copy. In my view this possibility reinforces my analysis of the situation at the appeal site itself.
24. I conclude that the proposed roof terrace(s) would have a very harmful effect on privacy in the adjoining homes and gardens. This would be contrary to the UDP and the Council's guidance on roof balconies and terraces and I have not seen any reasons for disregarding the development plan in this respect.

Conclusions

25. For the reasons given above and having regard to all the other matters raised, I conclude that the appeal should be dismissed. I have taken into account the extensive quotations from government guidance relied on by the appellant but in my view these do not overcome or outweigh the difficulties identified above.

Formal Decision

26. Accordingly, in exercise of the powers transferred to me, I dismiss the appeal.

Information

27. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

C.S. Turner

INSPECTOR