



**TOWN AND COUNTRY  
PLANNING ACT 1990**

**Appeal Statement**

**Proposed Rear Terrace and  
Balcony Screen**

**32 Kylemore Road  
Camden  
London NW6 2PT**

**Statement on behalf of  
Mr R Bernard  
by  
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**LPA Reference  
2018/2514/P**

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## 1. INTRODUCTION AND BACKGROUND

- 1.1 My name is Jonathan Weekes and I am an Associate Director at Aitchison Raffety, Chartered Town Planning Consultants. I have an Honours Degree in Physical Geography, a Masters in Town Planning and am a Member of the Royal Town Planning Institute. I am instructed by the appellant in respect of this appeal.
- 1.2 This appeal relates to the refusal of the use of the rear third storey flat roof as a roof terrace at 32 Kylemore Road, London NW6 2PT.
- 1.3 A planning application was submitted on 8 June 2018 (2018/2514/P). This application was refused on 31 July 2018 for the following reason:-
1. *The proposed solid glazed balustrading and privacy screen, by reason of its scale, height, materials, and placement on an uncluttered roofscape, would appear as incongruous and result in the appearance of excessive roof-level bulk from neighbouring properties and the adjoining street, contrary to Policy D1 (Design) of the London Borough of Camden Local Plan 2017 and Policy 2 of the Fortune Green and West Hampstead Neighbourhood Plan 2015.*

## 2. SITE DESCRIPTION AND SURROUNDINGS

- 2.1 This appeal relates to 32 Kylemore Road in Camden, London. The dwelling is a two-storey house with a three-storey return; with split floor internal arrangement. The street contains a series of terraced properties which are all similar in age and design. The street scene is characterised by double height bay windows, semi-private front gardens, and on-street parking provision to either side of a tree lined road, which is permit controlled.
- 2.2 The majority of the properties along Kylemore Road feature traditional brick wall materials and slate roofs. Although providing a degree of continuity to the overall appearance, a number of properties have been either painted or rendered, along with the incorporation of loft conversions, evidenced by rooflights facing the street. Basement/lower ground floor conversions are also common place.
- 2.3 To the rear, there are three storey outriggers to each property. Alteration to the rear facades are more varied than the street elevation, with a variety of rear and side infill extensions, along with loft conversions and some raised terraces.
- 2.4 The property is in close proximity to a number of local facilities, including the Kilburn High Road Local Centre and Kilburn Grange Park (circa 200 metres away). Its location provides access to facilities, augmented by regular bus services from the Local Centre as well as by rail from Brondesbury and West Hampstead railway stations, both less than 5 minutes' walk away.
- 2.5 The property is not statutorily Listed, and does not lie within a Conservation Area. The site is set within the Fortune Green and West Hampstead Neighbourhood Plan area, which was adopted in 2015.

### 3. Relevant Application History

#### Application site

##### Application 2018/1499/P

- 3.1 Full planning permission was granted by the Council on 21 May 2018 for the retrospective conversion of two 2-bedroom flats into a 3-bedroom dwelling-house, plus construction of a single storey rear infill extension at lower ground floor level. This application has been implemented.

##### Application 2018/1513/P

- 3.2 Planning consent was granted by the Council on 21 May 2018 for the erection of a rear dormer extension and installation of three front rooflights. This application has not been implemented.

##### Application 2018/2483/P

- 3.3 The Council granted consent for a Certificate of Lawfulness for the construction of a rear dormer extension and installation of three front rooflights on 12 June 2018. This provided an L-shaped dormer that projects over part of the rear extension. This approval has been implemented.

- 3.4 A copy of the plans approved as part of this CLD is included as [Appendix 1](#).

#### Other relevant applications

- 3.5 There are a plethora of roof terraces within the area, including some that have been granted consent along Kylemore Road in more recent years. These consents are set out below.

##### 15 Kylemore Road - Application reference 2016/6320/P

- 3.6 This application was submitted as a Certificate of Lawful Development for existing use, to enable the flat roof of the rear return to be used as a terrace. This consent was shown to exist for more than 4 years without causing any issue to the surrounding area, and is noted as having no balustrade in situ; the terrace is enclosed simply by a dwarf parapet wall around the edge of the outrigger. The Council approved the application on 16 December 2016.

- 3.7 A copy of the decision notice and officer's report pertaining to this application is attached as [Appendix 2](#).

##### 7 Kylemore Road - Application reference 2012/6016/P

- 3.8 The Council granted consent for the formation of a rear terrace to the second floor flat with a glazed balustrade and replacement of a window with a door to the rear of the dwelling on 3 January 2013. The proposal included a 1.7 metre high glass balustrade around the terrace. The case officer recognised that the terrace would not be a dominant feature when viewed from rear gardens or windows at adjoining properties. The provision of dormers and terraces at 5, 15 and 17 Kylemore Road, as well as those opposite on Gladys Road, were

taken into consideration in issuing this decision. It is worth noting that 15 Kylemore Road is included within this list despite not having consent for the terrace at that stage (see application reference above). Information relating to this approval is attached as [Appendix 3](#).

#### 10B Kylemore Road - Application reference 2012/0034/P

- 3.9 This application was for a dormer window to the rear roof-slope and the creation of a roof terrace enclosed by a wooden trellis and balustrading at rear second floor level, plus front rooflights. The rear terrace encompassed an area of 5.8 metres by 2.6 metres and was to be secured by a 1.2 metre high wooden balustrade and louvered trellis. The terrace screening was raised to a height of 1.6 metres to the side boundary of number 12 to ensure privacy. Consent was granted on 13 February 2012. Information forming part of this approval is provided as [Appendix 4](#).

#### 1C Kylemore Road - Application reference 2011/2662/P

- 3.10 This application included a number of elements seeking alterations and extensions at roof level, including an increase to the ridge height, associated increase in pitch of the hip, dormer window in the rear roof slope with door to provide access to a roof terrace to be created on the rear wing. The terrace would be enclosed by glazed screening. The roof terrace on top of the closet wing extension was found to relate subordinately to the existing building with a lightweight glazed enclosure. A condition was attached to ensure a privacy screen of a minimum height of 1.7 metres be installed on the northern side of the terrace. Within the assessment of the proposal, the case officer stated there would be no loss of sunlight, daylight or outlook to neighbours as a result of the application, nor would there be any disturbance caused. Consent was granted on 24 August 2011. Information relating to this approval is attached as [Appendix 5](#).

#### 16B Kylemore Road - Application reference 2010/4458/P

- 3.11 This application was for a rear dormer roof extension and glass balustrading to provide a terrace, as well as two roof lights to the front roof slope. The glass balustrading varied between 1.3 and 1.7 metres in height in order to protect residential amenity, with these screens set between 0.3 and 0.5 metres from the edges of the outrigger. The introduction of glass balustrading was not considered to harm the appearance of the building. The proposed balustrading was not considered to affect daylight or sunlight to neighbouring properties, whilst protecting the amenity of adjoining units. The Council granted consent on 19 October 2010. [Appendix 6](#) provides information on this approval.

## 4. APPEAL PROPOSAL

- 4.1 The proposal is to provide a rear terrace over the existing three storey return. The terrace will extend to 12.5 sqm and incorporate removal of the disused secondary chimneystack. Access to the terrace will be taken through a set of French doors located in the rear elevation of the dormer constructed under application 2018/2483/P. The terrace will be enclosed by obscure glazed balcony screens, set at 1.7 metres high to the southern side elevation and 1.1 metres high to the western (rear) and northern (side) elevations. The height of the enclosures was reduced on the western and northern side following discussion with the case officer during the planning application.

## 5. PLANNING POLICY

- 5.1 The starting point for assessing development proposals is always the Development Plan. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states “*if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise*”. The Development Plan for this proposal consists of the London Borough of Camden Local Plan 2017, The London Plan, the Fortune Green and West Hampstead Neighbourhood Plan 2015 and the Camden Planning Guidance (CPG).
- 5.2 In addition, the Government’s National Planning Policy Framework (NPPF) is an important material consideration for determining planning applications.
- 5.3 Due to the small-scale nature of this appeal proposal, only the most relevant aspects of policy have been outlined below.

### London Plan (March 2016)

- 5.4 The London Plan is a strategic spatial planning document produced as a result of the Greater London Authority (GLA) legislation requiring the Mayor of London to produce a ‘Spatial Development Strategy’. Boroughs local development documents have to be in general conformity with the London Plan that has to be taken into account when planning decisions are taken in any part of London unless there are planning reasons why it should not. The following policies set out below are considered relevant to the proposal.

### Policy 7.4 Local Character

- 5.5 The policy states that:-

*“buildings, streets and open space should provide a high quality design response that:*

- has regard to the pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass;*
- contributes to a positive relationship between the urban structure and natural landscape features, including the underlying landform and topography of an area;*
- is human in scale, ensuring buildings create a positive relationship with street level activity and people feel comfortable with their surroundings;*
- allows existing buildings and structures that make a positive contribution to the character of a place to influence the future character of the area; and*
- is informed by the surrounding historic environment”.*

### Policy 7.6 Architecture

- 5.6 The policy states that:-

*“architecture should make a positive contribution to a coherent public realm, streetscape and wider cityscape. It should incorporate the highest quality materials and design appropriate to its context.*

*Buildings and structures should:*

- a. be of the highest architectural quality*
- b. be of a proportion, composition, scale and orientation that enhances, activates and appropriately defines the public realm*
- c. comprise details and materials that complement, not necessarily replicate, the local architectural character*
- d. not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, in relation to privacy, overshadowing, wind and microclimate*
- e. incorporate best practice in resource management and climate change mitigation and adaptation*
- f. provide high quality indoor and outdoor spaces and integrate well with the surrounding streets and open spaces*
- g. be adaptable to different activities and land uses, particularly at ground level*
- h. meet the principles of inclusive design*
- i. optimise the potential of sites”*

#### **Camden Local Plan (adopted June 2017)**

5.7 The Camden Local Plan covers the period 2016-2031. Policies considered relevant to the proposal are set out below.

#### **Policy A1 Managing the impact of development**

5.8 The Council will seek to protect the quality of life of occupiers and neighbours. The Council will grant permission for development unless this causes unacceptable harm to amenity. The Council will:-

- a. seek to ensure that the amenity of communities, occupiers and neighbours is protected;*
- b. 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;*
- c. resist development that fails to adequately assess and address transport impacts affecting communities, occupiers, neighbours and the existing transport network; and*

d. *require mitigation measures where necessary.*

The Council will consider the following factors:-

e. *visual privacy, outlook;*

f. *sunlight, daylight and overshadowing;*

g. *artificial lighting levels;*

h. *transport impacts, including the use of Transport Assessments, Travel Plans and Delivery and Servicing Management Plans;*

i. *impacts of the construction phase, including the use of Construction Management Plans;*

j. *noise and vibration levels;*

k. *odour, fumes and dust;*

l. *microclimate;*

m. *contaminated land; and*

n. *impact upon water and wastewater infrastructure.*

#### Policy D1 Design

5.9 The Council will seek to secure high quality design in developments. The Council will require that development:-

a. *respects local context and character;*

c. *is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;*

d. *is of sustainable and durable construction and adaptable to different activities and land uses;*

e. *comprises details and materials that are of high quality and complement the local character;*

f. *integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;*

g. *is inclusive and accessible for all;*

i. *is secure and designed to minimise crime and antisocial behaviour;*

j. *responds to natural features and preserves gardens and other open space;*

- l. incorporates outdoor amenity space;*
- n. for housing, provides a high standard of accommodation; and*
- o. carefully integrates building services equipment.*

#### **Fortune Green and West Hampstead Neighbourhood Plan (adopted September 2015)**

5.10 The following policy is considered relevant to this proposal.

#### **Policy 2: Design and Character**

5.11 All development shall be a high quality of design, which complements and enhances the distinct local character and identity of Fortune Green and West Hampstead. This shall be achieved by:-

- i. Development which positively interfaces with the street and streetscape in which it is located.*
- ii. Development which maintains the positive contributions to character of existing buildings and structures.*
- iii. Development which is human in scale, in order to maintain and create a positive relationship between buildings and street level activity.*
- iv. Development which has regard to the form, function, structure and heritage of a place including the scale, mass, orientation, pattern and grain of surrounding buildings, streets and spaces.*
- v. A presumption in favour of a colour palate which reflects, or is in harmony with, the red brick and London stock brick of existing development.*
- vi. Extensions - and infill development - being in character and proportion with existing development and its setting, including the relationship to any adjoining properties.”*

#### **Other Relevant Documents**

#### **Camden Planning Guidance: Design CPG 1 (July 2015)**

5.12 The Council provide planning guidance on design to support its Local Plan. CPG1 relates to design guidance. Within the report it provides the following advice on roof terraces:-

*“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”.

#### Camden Planning Guidance: Amenity CPG6 (March 2018)

- 5.13 The Council provide further advice on amenity within CPG6. It states within paragraph 2.11 that:-

*“Although balconies and roof terraces can provide amenity space for flats that would otherwise have little or no exterior space, they also have the potential to increase opportunities for overlooking. Balconies and roof terraces should therefore be carefully sited and designed to reduce potential overlooking of habitable rooms or gardens of neighbouring residential buildings. Conversely, residential buildings should also be designed so that new balconies and roof terraces do not suffer from an unacceptable degree of overlooking from existing developments, particularly when this is the only outdoor amenity space available to the new dwelling”.*

- 5.14 Within paragraph 2.14 the Council provide the following advice on outlook:-

*“Developments should ensure that the proximity, size or cumulative effect of any structures avoids having an overbearing and/or dominating effect that is detrimental to the enjoyment of their properties by adjoining residential occupiers”.*

## 6. THE CASE ON BEHALF OF THE APPELLANT

- 6.1 Discussion was undertaken with the planning officer during the course of the application in order to minimise the necessary scale of the proposal without undermining privacy to the surrounding properties. However, the application was rejected on the basis of the roof terrace still providing excessive roof-level bulk from neighbouring properties and the adjoining street, and therefore appearing incongruous. It is considered that this reason for refusal is unjustified, a position which is set out below.
- 6.2 Comment is provided in respect of the chimneystack to be removed, as it is included within this scheme for completeness. The appeal site is not located within a Conservation Area and the building is not Listed. Consequently, consent is not required to remove the chimneystack. It is also noted that the reason for refusal did not raise any objection to the removal of this redundant secondary chimneystack.

### Setting and Public Visibility of the Appeal Property

- 6.3 The appeal site in question is a mid-terraced property, with a typical perimeter block development form. This largely screens views from public locations, with only small gaps located towards the ends of these rows allowing public views into the generally private rear courtyard areas. In this instance, the rear courtyard is constructed by properties fronting Kylemore Road, Lowfield Road and Hemstal Road, with a more open aspect provided to Sherriff Road to the north of this block. The rear gardens to these properties offer a verdant

appearance, with a number of mature trees present, heavily filtering views towards the buildings, as well as between the facing dwellings. Photographs showing the context of the site from two breaks in the built form of this block are provided as [Appendix 7](#).

- 6.4 The appeal property, 32 Kylemore Road, is the fourth dwelling in the terrace row from the southern end of this highway. Photograph 1 of [Appendix 7](#) is taken at an oblique angle close to the Kylemore Road/Hemstal Road junction and faces towards the appeal site. The appeal property is identifiable in this image by the hoarding placed over the building, as the dormer roof extension was being undertaken at this time. This photograph illustrates the relatively constrained view that is presented towards the sky between 38 Hemstal Road and 38 Kylemore Road, with the flank gable to the latter property severely curtailing any view. The rear part of the appeal property is not visible from this location. The dormer extension will be complete by the time the Inspector's site visit is undertaken, and thus will confirm that a structure higher than the proposed terrace enclosure will not be visible. Consequently, the appeal proposal will have no impact upon this public view.
- 6.5 From Sherriff Road, the appeal property is the seventeenth building away from this highway, which equates to a distance of around 75 metres. This places the property as part of the background of this collection of dwellings, with a number of buildings closer to Sherriff Road appearing significantly more prominent. Photographs 2 and 3 illustrate the views possible from this location, either side of the central tree row.
- 6.6 To the east of these trees, a view is provided largely along the rear elevation of the building for a section of highway approximately 10 metres in length. A number of the closest dwellings are missing in the foreground of photograph 2 which presents this view, but the appeal property can be depicted in the background by the hoarding over the building. For clarity it is emphasised that the height of this hoarding is significantly greater than the dormer being constructed and the terrace balustrade proposed. These elements will be barely visible from this public viewpoint. Again, the rear dormer will be complete at the time of the Inspector's site visit so its visibility can be fully assessed.
- 6.7 To the west of the trees, the appeal site is obscured from view, along with most of the Kylemore Road properties. Again, forming a section of the public highway around 10 metres in length, even in winter when most vegetation is not in leaf, it will not be possible to easily discern the appeal property from this part of the street.
- 6.8 The appeal scheme therefore has very limited opportunity to impact upon public views, with no close, clear vista possible. The context in which the appeal proposal will be seen is considered separately.

#### **Private Visibility of the Appeal Property/Amenity Impact**

- 6.9 From a planning perspective, there is no right to a view from a property/private land. However, the impact upon amenity is a material matter, which is considered separately below.
- 6.10 In respect of its visibility from the surrounding properties, it will be seen from rear facing windows of properties in Lowfield Road and Hemstal Road. However, these properties have intervening trees filtering these views, whilst the overall height of the appeal property will not be elevated and thus will not appear notably larger than any of the other properties on Kylemore Road. It is important to note that Kylemore Road consists of two storey dwellings,

whilst both Lowfield Road and Hemstal Road are three storey properties, providing additional height over those on Kylemore Road. Any alterations to the Kylemore Road properties will still maintain a subservient height compared to the other sides of this perimeter block. This relationship should therefore be considered acceptable and not materially different to that of the other terraces along Kylemore Road and the parallel streets.

- 6.11 From Kylemore Road, the alignment of the properties results in it only being visible from the side facing windows of number 34 and very limited viewpoints in the rear gardens of close-by properties. From the gardens, the proposed glazed balustrade will be seen within the existing form of the outrigger and given its modest scale and translucent appearance will not appear overbearing or dominant.
- 6.12 From the side windows of number 34, it will be elevated above lower ground and ground floor windows. It will be visible when occupiers look upwards from these windows. However, the outlook is not materially different to that presented for the neighbouring properties to any other existing roof terrace, with recent approvals under similar/identical planning policy provided in Section 3 above. In fact, given that a number of the existing terraces have timber enclosures, the glass design for the proposed terrace would have less impact. Whilst the internal arrangement of many side facing windows towards terraces is unknown, the layout of 34 Kylemore Road can be ascertained from a planning approval granting its subdivision into two flats. A copy of this approval is provided in [Appendix 8](#). This identifies that half of the side facing windows are to bathrooms and toilets and are thus obscure glazed, whilst the remaining windows serve habitable rooms that also have rear facing windows. These rear facing windows provide longer distance views over the rear gardens opposed to the truncated views towards the side wall of number 32. These side windows are therefore in essence secondary windows and the potential impact to outlook is significantly eroded as a result. Nonetheless, the provision of a glass screen set below that of the connecting dormer to number 32 should not be considered to present an overbearing arrangement, even if these were the primary windows. It will not materially truncate the views from these side windows, or alter its tight-knit urban setting.

### Built Visual Context

- 6.13 The officer's report seeks to infer that as the properties surrounding 32 Kylemore Road do not have roof extensions and terraces, the proliferation of these elsewhere within the same perimeter block is irrelevant. However, the impact upon the public view is then taken from the opposite end of the same perimeter block, whereby the rest of these roof additions would be visible. This clearly presents a contradiction in the justification for determining the application, that the Inspector is asked to re-evaluate.
- 6.14 Where views are possible towards the appeal property, both from the public domain and from private properties, the site is seen within the context of a linear row of terraced dwellings which incorporates a mix of extensions and alterations. Particularly from the public domain, this varied appearance is then furthered by the different building design and scales of the various streets forming this perimeter block. Even though the immediately adjacent properties do not have roof terraces, the other terraces and dormers are visible within these views, especially from the only public views on Sherriff Road. It is worthy of mention that the buildings fronting Sherriff Road at this point all contain balconies on the front elevation at first, second and third floors, whilst the glimpses through to the backland

setting of other perimeter blocks in the immediate vicinity offer similar raised terrace arrangements.

- 6.15 The proposed terrace is set within the existing building form and offers an appearance that is as lightweight as possible whilst still protecting amenity for all and complying with Building Regulations on safety grounds. Its visual impact and context should therefore be considered acceptable and in accordance with adopted policy, including Policy D1 of the Local Plan and Policy 2 of the Fortune Green and West Hampstead Neighbourhood Plan.
- 6.16 The eclectic mix of buildings and their forms, plus the visibility of roof terraces at various levels and the influence of the backland vegetation are shown through the photographs included as [Appendix 9](#). These are all taken from the flat roof at number 32 upon which the proposed terrace will be located.

## 7. CONCLUSIONS

- 7.1 This appeal is to provide a roof terrace to the rear of the host property, over the existing roof of the rear outrigger, with access served off the existing dormer extension. The terrace will be enclosed by an obscure glazed balustrade.
- 7.2 The proposed location of the terrace is to the rear of the property where only glimpsed, long distance views across multiple rear gardens will occur from the public domain. From this publicly visible location, as well as from any private viewpoints, the proposed extension is seen as a modest glazed addition set within the existing building footprint. Located on top of an existing flat roof, it will connect with an existing loft dormer and therefore not appear unduly large or prominent. The terrace and glass screen will also be seen within the context of the perimeter block, where a number of similarly scaled terraces are already present, with these set in the foreground to the public viewpoint. The proposed roof terrace will not therefore appear incongruous or excessive in scale.
- 7.3 The proposed glass screen is considered by the local planning authority to have an undue impact upon the outlook from the side facing windows of 34 Kylemore Road. Whilst the outlook created from these windows in essence would be not materially different to that considered acceptable through approval of various roof terraces along Kylemore Road and the surrounding area, two key elements signify that the proposed impact is better than these existing examples. Firstly, many other recent approvals incorporate timber screens. These have a greater impact than a translucent screen, as proposed through the appeal scheme. Secondly, the only two clear glazed side facing windows in number 34 serve rooms that also have rear facing windows. The existing arrangement infers that the rear facing windows are the primary windows to these rooms, offering longer distance views over the rear gardens. The side facing windows already have views heavily truncated by the return at number 34 and thus the provision of a lightweight screen onto this structure from a secondary window should be considered acceptable.
- 7.4 The proposed roof terrace and its obscure glazed balcony screen should therefore be considered to comply with relevant policy and guidance and approved without delay.