

Enforcement Delegated Report			Receipt date:	29/01/2019
Officer		Enforcement Case		
Ramesh Depala		EN17/1008		
Breach Address		Photos & Other material		
Flat 1, 4 and 5, Samara Mansions, 11 Netherhall Gardens, London, NW3 5RN		<TEXT>		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Alleged Breach				
Without planning permission the Installation of 26 window and door shutters to Flats 1, 2, 4 and 5 on the rear and side elevations located on the lower ground, ground and first floor of the property				
Recommendation(s):		Issue an Enforcement Notice		
Priority:		c		

Site Description	
<p>The site is located on the western side of Netherhall Gardens and contains a three-storey apartment building of modern construction (planning permission granted in 27/03/2011 ref: 2011/3471/P), but has been sensitively designed to reflect the surrounding context. The proposal relates directly to Flats 1, 2, 4 and 5, which is at the lower ground, ground and first floor level.</p> <p>The property is not a listed building, however, the site is located within the Fitzjohns Netherhall Conservation Area.</p>	
Investigation History	
<p>This report is an addendum to the original delegated report attached to the application referenced 2018/1577/P</p> <p>Planning History;</p> <p>2011/3471/P - Erection of building comprising basement, ground and first to third floor plus roof to provide 1 x 1-bedroom, 3 x 2-bedroom and 5 x 3-bedroom self-contained flats (following demolition of the existing building except party wall to 9 Netherhall Gardens). Granted planning permission 27/03/2012.</p> <p>2009/3889/P - Additions and alterations including a full width rear extension at ground level, a rear extension at first and second floors, a roof extension with dormer windows and an enlarged basement excavation to comprise 1 x 1-bedroom, 3 x 2-bedroom and 5 x 3bedroom self-contained flats to the existing residential building, following substantial demolition of the existing property. Refused 12/08/2009, appeal dismissed Ref: APP/X5210/A/09/2116848. Following the Hearing the Inspector concluded that the only reason for refusal which could be maintained related to the provision of affordable housing. The affordable housing issue was overcome in the January 2011 approval (referenced above).</p>	

Relevant policies / GPDO Category

National Planning Policy Framework 2018

The London Plan March 2016

Camden Local Plan 2017

Policy G1 Delivery and location of growth

Policy A1 Managing the impact of development

Policy D1 Design

Policy D2 Heritage

Camden Planning Guidance

CPG 1 Design (July 2015 updated March 2018)

CPG Amenity (2018)

Fitzjohns Netherhall Conservation Area (2001)

Assessment

Proposal

The proposal is for the retention of 26 window and door shutters to Flats 1, 2, 4 and 5 located on the side and rear elevations of the property at Samara Mansions, 11 Netherhall Gardens.

Flat	Level	Shutters
1	Ground and lower ground floor	10 shutters in total, 4 to ground floor terrace and 6 to lower ground floor
2	Ground floor	12 shutters in total, 5 on rear elevations with 7 on side (north) elevation
4	First floor	1 shutter enclosing 2 windows
5	First floor	3 shutters to the rear bay windows

Each shutter has a shutter box at the top the window or door and guide rails either side. The shutter, shutter box and guide rails are constructed of a white metal.

The key planning issues are as follows:

- Design
- Impact on the Conservation Area
- Amenity (impact on neighbouring amenity in terms of daylight, outlook, and privacy)

Design

The Council's design policies are aimed at achieving the highest standard of design in all developments, including where alterations and extensions are proposed. The Local Plan policy D1 (Design) requires development to be of the highest architectural and urban design quality which improves the function, appearance and character of the area. Policy D2 (Heritage) states that the Council will preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas. Camden's Local Plan Document is supported by CPG1 (Design).

The Fitzjohns & Netherhall Conservation Area Statement (FNCAS) discusses elevational alterations and loss of detail. It is stated that the properties in the area have a wealth of applied decoration and detail on them and alterations that can erode the character include security shutters.

The replacement building was granted planning consent in 2011 (Ref: 2011/3471/P) based on the Inspectors findings from the appeal in 2009 (Ref: 12/08/2009, appeal dismissed Ref: APP/X5210/A/09/2116848). The Inspector found that:

'Its design has however been carefully formulated, utilising a range of architectural features and local design references that have been interpreted in a contemporary manner'.

Therefore, the replacement building was supported in part on the basis that the design incorporated key architectural features and local design references. This was continued into application Ref: 2011/3471/P, wherein the approval was subject to further details of these important architectural components (conditions 2, 11 and 12). Required details included: brickwork [demonstrating the proposed brick colour, texture and type, mortar and pointing], windows, terracotta decoration, and joinery. 1:20 drawings of replacement elevations were required, as were 1:5 plans of salvaged and/or reconstructed architectural components including terracotta decoration and joinery. Occupancy was also prevented until all items listed within the schedule of retained architectural features of the conservation area consent for the demolition of the existing building, were incorporated into the development. Given the above, a substantial portion of the buildings value and contribution to the character and appearance of the conservation area arise from these key architectural features.

The proposed shutters serve to obscure these architectural features, notably the solid brick detailing above the windows and fenestration details, as well as detracting from the overall character and appearance of the host property. The external shutters overall including the shutter box and guide rails appear as bulky

incongruous features that harm the character and appearance of the property and surrounding conservation area.

Impact on the Conservation Area

Considerable importance and weight has been attached to the harm and special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

Given the assessment in the design section, it is considered that the external shutters, housing and guide rails would result in less than substantial harm to the character, appearance and historic interest of the conservation area. The shutters would seemingly result in an improved security benefit for occupiers. Whilst this public benefit can be weighed somewhat against the less than substantial harm to the conservation area arising from the scheme, it is noted that no evidence has been submitted to support the claims of security improvements, nor has it been demonstrated that other security provisions such as internal shutters or CCTV (for example) would not be adequate to meet the security needs of the occupiers. In any event, it is considered that such evidence would not be sufficient to outweigh the harm caused as a result of the proposal.

The proposal is thereby considered to constitute less than substantial harm to the host property and the Fitzjohns & Netherhall Conservation Area, with some public benefits derived from the scheme. Weighing the harm caused to the conservation area as a result of the development against this public benefit, the proposal is considered to be contrary to Section 16 of the NPPF (2018) which seeks to preserve and enhance heritage assets.

As a result it is considered that the proposal would fail to accord with the Fitzjohns & Netherhall Conservation Area Statement (2011), policies D1 and D2 of the Local Plan, and Section 16 of the NPPF (2018), resulting in an incongruous addition, failing to preserve or enhance the setting of the conservation area.

Amenity

Policy A1 of the Local Plan 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, outlook, noise and impact on daylight and sunlight. Camden's Local Plan is supported by CPG (Amenity).

The retention of the shutters would not have an adverse impact on the adjoining properties in terms of outlook, sunlight or daylight.

Conclusion

For the reasons outlined above the retention of the shutters at Flats 1, 2, 4 and 5 would appear as bulky incongruous features, and would undermine the architectural features of the new build host property which was sensitively designed and detailed to be in-keeping with character of the conservation area. Therefore the retention of the shutters fails to be in accordance with policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.

Recommendation: 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 to remove the 26 shutters, shutter boxes and guide rails and officers be authorised in the event of non-compliance, 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.

Issues:

For the reasons outlined above the retention of the shutters at Flats 1, 2, 4 and 5 would appear as bulky incongruous features, and would undermine the architectural features of the new build host property which was sensitively designed and detailed to be in-keeping with character of the conservation area. Therefore the retention of the shutters fails to be in accordance with policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.

Recommendation:

The window and door shutters including shutter boxes and guide rails at Flats 1, 2, 4 and 5, by reason of their location, design and appearance, result in an incongruous addition which harms the character and appearance of the building and the Fitzjohns & Netherhall Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.

The notice shall allege the following breaches of planning control:

WHAT ARE YOU REQUIRED TO DO:

1. Remove from the external elevations of the properties all window and door shutters, shutter boxes, guide rails and any associated fixtures or fittings.
2. Make good any damage caused to the rear and side elevations with materials to match the existing building.
3. Remove from the property all constituent materials resulting from the above works.

PERIOD OF COMPLIANCE:

The Notice shall require that the shutters be removed within a period of 3 months of the Notice taking effect.

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

The window and door shutters including shutter boxes and guide rails at Flats 1, 2, 4 and 5, by reason of their location, design and appearance, result in an incongruous addition which harms the character and appearance of the building and the Fitzjohns & Netherhall Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.