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| Delegated Report | | Analysis sheet | | Expiry Date: | 03/02/2021 |
| | | N/A | | Consultation Expiry Date: | 10/01/2021 |
| Officer | | | Application Number(s) | | |
| Josh Lawlor | | | 2020/5156/P | | |
| Application Address | | | Drawing Numbers | | |
| 27 Constantine Road London NW3 2LN | | | See Decision Notice | | |
| PO 3/4 | Area Team Signature | C&UD | Authorised Officer Signature | | |
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| Proposal(s) | | | | | |
| Installation of metal balustrade around rear roof terrace, following removal of timber fencing. | | | | | |
| Recommendation(s): | | Grant Planning Permission and Enforcement Action to be Taken | | | |
| Application Type: | | Householder Application | | | |

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| Conditions or Reasons for Refusal: | Refer to Draft Decision Notice | | | | | |
| Informatives: | | | | | | |
| Consultations | | | | | | |
| Adjoining Occupiers: | No. notified | 00 | No. of responses | 01 | No. of objections | 01 |
| Summary of consultation responses: | <p>Site notices were displayed near to the site on 11/12/2020 and expired on 04/01/2021.</p> <p>The application was publicised in the local press on 17/12/2020 and expired on 10/01/2021.</p> <p>In response to the scheme, an objection was received from the owner/occupier of 129 South End Close, Hampstead. Objections were made on the following grounds:</p> <ul style="list-style-type: none"> • History of the private roads and area of South End Close being used as a storage dump and building site by residents of Constantine Road. This causes obstacles for residents some of whom are disabled or with children. The increase in traffic from construction working and workers is also a hazard to residents. An objection is therefore placed on any and all use of South End Close roads and private access as a method for construction of this alteration. • No issue with the privacy concerns of the proposal. South End Close residence do have to suffer the noise of parties going late into the night from residents of Constantine Road using the roof access as a makeshift party venue. <p><i>Officer response: The proposal would not create highways issues or require the use of South End Close to enable development. The terrace is existing and its use is not assessed as part of this application.</i></p> | | | | | |

Site Description

The site is a three storey mid terrace building in use as a single dwelling house which is located on the northern side of Constantine Road. The site is located within the Mansfield Conservation Area and while the building is not listed, it is recognised as making a positive contribution to the character of the conservation area.

Relevant History

EN20/0690 – Enforcement case opened to investigate erection of fence, on 27/08/2020.

No relevant planning history.

Relevant policies

National Planning Policy Framework 2019

London Plan 2021

Camden Local Plan 2017

- A1 Managing the Impact of Development
- D1 Design
- D2 Heritage

Supplementary Guidance - Camden Planning Guidance

- [Design](#) - January 2021
 - Chapters 1 (Introduction), 2 (Design Excellence), 3 (Heritage), 4 (Landscape and public realm) - These chapters are all inclusive.
- [Home improvements](#) - January 2021
 - Camden Context (Pages 6 - 8), Balconies and terraces (Page 55)

Mansfield Conservation Area Appraisal and Management Strategy (2008)

Assessment

1. The proposal and background

1.1. Planning permission is sought for the installation of a black metal balustrade with a height of 1.1m around the perimeter of the roof of the rear two storey outrigger. The existing timber fence with a height of 1.5m around the perimeter of the roof was erected in 2020, and replaced pre-existing timber trellising with a height of approximately 1m to the sides and 1.8m to the rear (see figures 1 and 2 below).



Figure 1 (above): Photos of existing timber fencing around perimeter of rear roof terrace



Figure 2 (above): Pre-existing timber trellising around perimeter of rear roof terrace

1.2. There is no recorded planning permission for the rear roof terrace at second floor level above the outrigger and associated fencing. However, aerial photography dating from 2012 (see figure 3 dated from 2014) indicates that the roof has been used as a terrace for well over four years. The use of the flat roof as a terrace is therefore considered to be established and lawful through the passing of time. The rear wall has been raised to enable the flat roof to be used as a terrace and there is a door to provide access to the terrace. These elements are considered historic and do not form part the assessment of the application.



Figure 3 (above): Aerial view of site showing rear roof terrace in situ, dated 2014

2. Revisions

2.1. The application has been revised on Officer advice. The application was originally for the retention of the fence around the perimeter of the terrace, but is now for the installation of a black metal balustrade with a height of 1.1m.

3. Assessment

3.1. The principal considerations material to the determination of this application are as follows:

- Design and Heritage
- The impacts caused upon the amenities of the neighbouring properties.

4. Design and Heritage

- 4.1. Local Plan Policy D1 seeks to secure high quality design in development which respects local context and character. Policy D2 states that the Council will preserve and enhance Camden's heritage assets and their settings. The Council will not permit development that results in harm that is less than substantial to the significance of the heritage asset unless the public benefits of the proposal significantly outweigh that harm. CPG Design recommends that alterations take into account the character and design of the property and surroundings.
- 4.2. CPG Home Improvements states that terraces should form an integral element in the design of elevations and should complement the elevation upon which it is to be located. It further adds that any handrails required should be well set back behind the line of the roof slope, and be invisible from the ground.
- 4.3. The existing fence is considered to add visual clutter at high level which undermines the composition of the rear elevation. The visual impact of the fence is read as adding excessive bulk to the rear elevation. It is noted that the rear elevations of Constantine Road are visible from South End Close. The existing fence would harm the character of the roofscape and Mansfield Conservation Area.
- 4.4. On Officer advice, the proposal has been revised from the retention of the wooden fencing to the installation of a simple metal balustrade. The metal balustrade would be more sympathetic to the character of the building and overall roof form. The railings would have a more lightweight appearance as a result of their permeability. The 1.1m height of the proposed balustrades is the minimum height required to comply with Building Regulations. An Enforcement Notice will be issued to require the existing fence to be removed, and either the resulting damage made good or the metal balustrade installed in accordance with the approved drawings.

5. Amenity

- 5.1. Policy A1 seeks to protect the quality of life of occupiers and neighbours by only granting permission to development that would not harm the amenity of residents. This includes factors such as privacy, outlook, sense of enclosure and implications to natural light.
- 5.2. The use of the roof as a terrace is existing and the replacement of the fencing with a metal balustrade would not significantly increase overlooking to neighbouring habitable windows. There are no neighbouring windows to the north beyond South End Close that would be impacted. Similarly, the proposal would not create any additional overlooking backwards to neighbouring windows at nos. 25 and 29. The balustrading on the sides of the roof would remain at a similar height and the use of the roof as a terrace would not change.

6. Recommendations

- 6.1. Grant planning permission
- 6.2. Issue an Enforcement Notice to require the removal of the unauthorised wooden fencing.

That the Director, Culture and Environment instruct the Head of Legal Services to issue a Listed Building Enforcement Notice under Section 38 of the Planning (Listed Building and Conservation Area) Act 1990 as amended, and officers be authorised, in the event of non-compliance, to prosecute under Section 43 or other appropriate power and/or take direct action in order to secure the cessation of the breaches of planning control.

The Notice shall allege the following breaches of planning control:

1. The installation of wooden fencing to rear roof terrace at second floor level.

What you are required to do:

1. Completely remove the fencing to rear roof terrace at second floor level,
2. Remove all resultant debris and either:
 - a) Make good any resulting damage; or
 - b) Install the metal balustrade as shown on drawing numbers 2020/1434/5 & 2020/1434/4 granted planning permission 2020/5156/P.

Period of compliance:

3 Months

Reasons why the Council consider it expedient to issue the Notice:

The unauthorised fencing, by reason of its design, materials and location, has a detrimental impact on the character and appearance of the host building and wider Mansfield Conservation Area contrary to policies D1 and D2 of the Camden Local Plan 2017.