

To:

Obote Hope
Joshua Ogunleye

Date: 12 October 2021

Planning Applications : 2021/3075/P & 2021/3604/P (Certificate of Lawfulness)

Further to my e-mail of 28 September, I am writing to lodge a *formal* objection to the use of a Certificate of Lawfulness for this application. My reasons are set out in this note

Background & Context

In 2019, the leaseholder at 152A Agar Grove removed the existing window and replaced it. This was *without* freeholder consent or a Party Wall Agreement.

The window is in a boundary, shared and party wall between 152A and 152B Agar Grove. *You will see that the window sits on our (152B) roof terrace (slightly above floor level).*

The window is on the stairwell for 152A Agar Grove.

The leaseholder demolished the existing window before the freeholder could carry out an on-site inspection. I was able to take *some* photos as it was happening.

This was, initially, trespass on our property as the contractors tried to carry out the work from our side of the window. The police were involved subsequently as the leaseholder at 152A would not leave our roof terrace after requests to do so.

There were a number of other issues that were, and are, being dealt with by the freeholder in relation to unauthorised work. This was one in which the leaseholder had to secure planning permission (*as a first step*) before the freeholder would *consider* granting retrospective approval. It has taken a number of months for the leaseholder to submit an application; however, the process that is being used does not appear to be appropriate for these circumstances.

Planning Process - Certificate of Lawfulness - Criteria

Ownership

The application states that the Lessee has to give details of owner i.e. freeholder. This is not included in the application form.

Identical, Like- with-Like Replacement

Camden's Planning policy¹ and the guidance on the Planning Portal² stipulate that a replacement window has to be 'identical' and 'like-with-like'.

¹ <https://www.camden.gov.uk/doors-windows-planning-permission>

² <https://www.camden.gov.uk/doors-windows-planning-permission>

Camden's *latest* Planning Guidance for Home Improvements (2021) sets out the 'like-with-like' requirements, with a visual illustration³.

- The replacement window differs in 'appearance' and 'size'. It is what seems to be described as a 'faux' Victorian window. This is apparent from the images submitted with the application.
- The frame is considerably larger and the window panes have a reflective coating which creates a 'mirror' effect on our side.
- In addition, the window differs in appearance from the *original sash windows in the rest of the property*, which are in keeping with the period character of the house. See attached photos.

Amenity – Privacy & Security

- Current planning regulations require this window to be fixed and with obscured glass.
- Current planning regulations require minimum separation distances between properties/dwelling. Or, mitigation measures where the proximity of neighbouring properties precludes achieving these separation distances.
- The previous window *was fixed*. The bottom portion was *not openable* for a number of reasons.
 - opening the window would have constituted an act of trespass onto our property (as per lease agreements and boundary lines).
 - the window is *less than* 800mm above floor level on our roof terrace. This would have constituted a safety risk and building regulations issue (ie falling through onto the staircase) if the bottom portion had been openable. *As LB Camden is the freeholder, they would ensure that the original window was compliant.*
 - There is correspondence sent to the freeholder and Planning (in relation to another matter) dating back to 2018 which demonstrates that the only concern we raised was that the window should have obscured glass. Clearly, we didn't have concerns about other aspects as the window was never opened.

The Camden Plan (2021) states that a 'person's home' should 'provide them with security ... and privacy'. *The replacement window is at odds with this key principle in the plan.*

Security & Safety

There have been ongoing issues re trespass and damage to our property by the leaseholder at 152A Agar Grove. This included one occasion when my mother [REDACTED] went down to our roof terrace to find three "strange men" standing there. It turns out they had been employed by the leaseholder at 152A to carry out (unauthorised) work. These are the subject of legal action and the police have been involved.

³ <https://www.camden.gov.uk/documents/20142/4823269/Home+Improvements+CPG+Jan+2021.pdf> (page 56)

You will see from the second image submitted with the application that the photo was taken by somebody standing on *our* roof terrace (they are shown in the reflection of the now mirrored windows)

Our roof terrace is a private space that can only be accessed by :

- climbing over a boundary fence or wall (gaining access, initially, through 152A Agar Grove).
- climbing through the window in question (again, gaining access, initially, through 152A Agar Grove).

This latest act of trespass reinforces the need to ensure that the correct process is followed for this application *and* that previous safety and security measures are restored. My understanding is that the '*onus of proof in a LDC application is firmly on the applicant*⁴' – I hope that Planning treats this as an important consideration, in particular noting that the *applicant destroyed the original window (the evidence)* as soon as it was removed.

Summary

In conclusion:

- A Certificate of Lawfulness does not seem to be a lawful process for this application.
- The interests of all parties⁵ would be better served if the full planning process was used. Otherwise, the measures that we can put in place (lawfully) on our roof terrace would be less appealing to the leaseholder at 152A Agar Grove.

Kind regards

Karen Fonseca, Leaseholder
152B Agar Grove, NW1 9TY

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/7713/321541.pdf

⁵ Freeholder and leaseholders at 152A and 152B Agar Grove.