

Enforcement Delegated Report	Receipt date:	24/02/2015
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Officer	Enforcement Case
Angela Ryan	EN15/0212

Breach Address	Photos & Other material
48 Mornington Terrace, London, NW1 7RT	On file

PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature

Alleged Breach

1. The change of use of the basement into an architect's office.
2. The unauthorised erection of a full width rear extension at basement and ground floor level, together with various unauthorised internal and external alterations

Recommendation(s):	<ol style="list-style-type: none"> 1. That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended requiring the cessation of the use of the basement as an architecture office and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control. 2. That the Borough Solicitor be instructed to issue a Listed Building Enforcement Notice Under Section 38 of the Planning (Listed Building and Conservation Area) Act 1990 as amended, requiring all unauthorised works to the listed building to be removed and that historic features/features where possible are reinstated or replaced 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.
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Priority:	P3
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Site Description

The site is located on the eastern side of Mornington Terrace. The property is a four storey with basement level mid-terrace house. The property is constructed of yellow stock brick with rusticated stucco ground floors and forms part of a terrace of 27 houses dating from the mid-19th century. The general pattern to the rear of the terrace is that of relatively small, two storey closet wings.

The site is Grade II listed and is located within the Camden Town Conservation Area.

Investigation History

24/02/2015 – Complaint received in respect to unauthorised works being undertaken to the listed building rear ground floor and basement extensions and various other alterations being undertaken throughout without the benefit of listed building consent

27/03/2015- e-mail sent to offender's Agent advising that also more information would be required in the interest of clarity. A list of queries was attached to this e-mail

05/06/2015- letter sent to offender providing a list of the works that may be acceptable and those that were unacceptable. This was later confirmed via a formal letter sent to the Offender and dated 5th June 2015.

12/07/2015- Planning consultant responded via an e-mail submitting a report that addressed advising that a report had been commissioned to address elements such as works not affecting special interest and not requiring listed building; works effecting change that is nevertheless of an appropriate and/or enhancing nature, requiring formalisation under procedures relating to the listed building consent process; works that conform with neither of the above criterion and therefore required reversal.

He was of the opinion that with the exception of the rear extension and garden room – all other matters either did not necessitate Listed Building Consent (i.e. like-for-like refurbishment), or could readily be addressed by way of a separate Listed Building. The letter also advised that it was the offender's intention to appeal against the recent refusal against the rear extension and requested a meeting to discuss the findings

20/08/2015- E-mail sent to planning consultant from the Council advising the 2012 survey plans was the only information in the Council's possession and that no further information was available apart from that which had had been submitted in support of the retrospective applications that had been submitted. A set of 'currently constructed' plans was requested.

21/08/2015- Planning Consultant confirmed via an e-mail that all of the information would be submitted via a CD

27/11/15- Council sent an e-mail to Planning Consultant providing a list of the additional information that may be required to assist the Council. The e-mail also advised that an unauthorised studio room would be enforced against.

National Planning Policy Framework 2012: section 12: paras 126- 138

London Plan 2016; Policies: 7.4, 7.6 and 7.8

Local Plan 2017

D1 - Design

D2 - Heritage

Supplementary Planning Policies:

Camden Town Conservation Area Appraisal and Management Strategy (2007)

CPG 1 Design (2014): chapters, 1, 2, 3 & 4

CPG 6 Amenity (2011): Chapters 6 & 7

Assessment

Relevant Planning history:

1 December 2014-Planning application and listed building consent submitted for the 'Erection of full width rear extension at lower and ground floors (retrospective).' (2014/7506/L and 2014/7441/P). 21/07/2015 - Planning permission and Listed Building Consent were both refused for the following reason:

"The development, by reason of its design, scale, bulk and location, has a detrimental impact on the character and appearance of the Camden Town conservation area, on the appearance and setting of the host listed building and on the setting of the wider terrace of listed buildings. As such the proposal is contrary to policies CS5 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Local Development Framework Camden Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of London Borough of Camden Local Development Framework Development Policies"

2013/6742/L: External and internal alterations for erection of single storey rear extension on basement level, new rear lightwell with balustrade and replacement of rear ground floor windows of rear extension to dwellinghouse and associated internal alterations (Class C3). – **Granted**

2013/6592/P: Erection of single storey rear extension on basement level, new rear lightwell with balustrade and alterations to rear ground floor windows of rear extension to dwellinghouse (Class C3). – **Granted**

2013/4379/L, 2013/4286/P: Erection of rear extension at lower ground floor level of existing dwelling (Class C3), associated landscaping and internal alterations. – **Refused**

2013/2343/L, 2013/2239/P: Erection of basement and ground floor rear extension with first floor rear extension above, new rear lightwell with associated landscaping, glass canopy over front lightwell and internal alterations to existing dwelling (Class C3). – **Refused**

2008/3295/L: Mass concrete underpinning to the single storey rear extension. – **Granted**

L9603004: Approval of details of brick sample pursuant to condition 2 of the listed building consent L9601081R1 for the rebuilding of part of rear wall to match existing. – **Granted**

L9601081R1: Rebuilding of part of the rear wall to match the existing work, as shown on drawing no. 557/1 as amended by agent's letter of 13.6.96. – **Granted**

L9601081: Removal of chimney and rebuilding part rear wall below parapet level without replacing attached

flue below parapet level, plans submitted. – Withdrawn

Relevant Enforcement History:

Background:

In 2014 a scheme was approved for an enclosure of the lower ground patio area next to the outrigger to create an enlarged lower ground floor extension with a glazed roof, plus a small patio to its rear. This basement was implemented but was not constructed in accordance with the approved scheme. The main difference is that the built basement has a higher floor to ceiling height and has been reduced in length, and the approved basement patio has been omitted from the scheme. The approved glazed roof has also been omitted and the basement extension now lies under solid decking located at ground floor level. The approved scheme had a basement had an approved ceiling height of between 2.2 and 2.4 metres, and a length of 16 metres. However, the as built extension is at a height of between 2.3 and 2.7 metres and a length of 14metres. The basement exceeds garden level (approved scheme basement was largely subsumed underground) and has high level glazing on the rear elevation that faces the garden.

The proposed rear extension as built is partly open and partly enclosed. It measures 3.4 metres in height and 4.9 metres deep as measured from the original house rear wall to the end of the rear extension. Although the extension can be read as full width, it actually comprises a half-width solid extension to the host building g, and adjoining this is a raised deck with glazed roof and solid party wall so that it is enclosed on 3 sides plus the roof. This deck replaces the previously approved glazed roof to the lower ground. There was previously a rear outrigger at the property that measured 8.1 metres in depth, thus the newly built replacement extension has been reduced in depth.

The proposed extension is finished as a black painted steel structure, with partly clear and partial black obscured glazed windows, with a green roof installed to the solid element. The proposed roof covering to the deck is finished in a scalloped bottom design and uses the same glazing as the rear extension.

The Offender argued that the proposal is only a half width extension as the 'garden room' on the side decked area is open. However although the proposed 'garden room' is not completely fully enclosed, it has three walls and a roof. The whole structure also reads as a full width extension rather than a half extension. Officers have taken the view that this open sided structure constitutes an enclosure and therefore constitutes an extension.

Assessment:

In considering proposed development affecting a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to pay special attention to the desirability of preserving or enhancing the area's character or appearance.

Policies D1 of Camden's Local Plan 2017 requires development to be of high quality design that should respect the local context and character, including the character and proportions of the existing building, where alterations and extensions are proposed. Policy D1 also advocates for development to comprise of details and materials that are of high quality and complement the local character. Policy D2 requires development to preserve or enhance the historic environment and heritage assets and will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and listed buildings, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh

the harm or loss. In order to preserve or enhance the borough's listed buildings the council will:

- i. resist the total or substantial demolition of a listed building;
- j.. resist proposals for a change of use or alterations and extensions to a listed building where this would cause harm to the special architectural and historic interest of the building; and
- k. resist development that would cause harm to significance of a listed building through an effect on its setting.

The principle, size and design of basement extension has already been considered under the previous applications approved under application refs: 2013/6742/L and 2013/6592/P and was deemed to be acceptable. The proposed increase in height is not considered significant and does not affect the size and bulk of extensions at ground level above which remain the same as the previously existing extension here. In addition, the structural stability has already been considered under the previous applications and the slight increase in depth is not seen to be large enough to warrant a whole new Basement Impact Assessment and independent verification. In itself, it is acceptable in bulk and design, apart from the new high level skylights that look towards the rear garden, which are unacceptable in their use of materials.

The proposed full width ground floor extension is considered unacceptable in terms of its size and design. Although the size, depth and height of the solid half-width element in itself is acceptable in principle, the overall size of the structure when read as a whole, e.g., a full-width extension with roofing is considered to be overly bulky and prominent in the context of its relationship to the host building and the local area context. This is exacerbated by the presence of the raised basement floor, which has visible high-level skylights, thus contributing to the overall bulk and size of the whole extension as viewed from the rear garden. The whole two-storey rear extension, as viewed above garden level, ignores the historic L-shaped building design as well as its historic character in terms of size, form and materials. Instead, what is being proposed are materials that are uncharacteristic for the listed building's period, character and design. It results in a heavy and dominant structure that completely obstructs views of the rear composition of the listed building, detracting from its architectural qualities.

The Offender argued that the inspiration for the materials has been taken from the nearby railway track and the industrial era. Given the historic significance of the building, it would have been more suitable for inspiration to have been taken from the domestic listed buildings themselves located in this road or the architectural influence of the conservation area. By taking inspiration from an unrelated structure, the proposal appears as an alien structure in what is otherwise a very Victorian residential development. The development therefore fails to relate to its context and does not preserve or enhance the character or appearance of the conservation area and is unsympathetic to the appearance of the house.

Impact on Grade II Listed building

Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 also requires that special attention has been paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest of the listed building.

National policy guidance set out in the NPPF also confirms that great weight should be attached in favour of the conservation of any 'designated heritage assets', such as conservation areas and/or listed buildings. The particular significance of any heritage assets likely to be affected by a development proposal should be identified and assessed, including any contribution made by their setting. Any harm should require clear and

convincing justification. The NPPF also states that the setting of a heritage asset can contribute to its significance. Opportunities should be sought for new development within conservation areas and within the setting of heritage assets that would enhance or better reveal the significance of the heritage asset.

In line with these considerations, paragraph 3.22 of supplementary guidance CPG 1(Design) states that when considering a proposal to a listed building the Council will consider the:

1. original and historic materials and architectural features;
2. original layout of rooms;
3. structural integrity; and
4. character and appearance.

The proposed rear extension has been designed in complete disregard for the special qualities of the listed building or the character of the conservation area. The proposed form and materials compete rather than relate to or match the structure and creates an incongruous element in the rear elevation of this terrace of building. The structure substantially harms the special historic interest of this listed building and therefore fails to comply with national or local guidance for development that affects listed buildings.

The unauthorised internal alterations are also considered to harm the special historic interest of the building by spoiling its original plan form and in some instances has resulted in the loss of original fabric.

Change of use:

Planning permission has neither been sought or granted for the change of use of the basement from residential to an architect's office and therefore the current use of the basement is unauthorised. The element is considered to be unacceptable and is not considered constituted working from home because at the time of the site inspection there were 6 desks in situ and staff were arriving for work each day, which in essence makes this a commercial enterprise.

1. Recommendation:

That the Borough Solicitor be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended requiring the cessation of the use of the basement as an architecture office and to pursue any legal action necessary to secure compliance and officers be authorised in the event of non-compliance, to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

The notice shall allege the following breaches of planning control:

The unauthorised use of the basement for an architecture office

WHAT ARE YOU REQUIRED TO DO:

within one month of the notice taking effect to:

1. Cease the use of the basement as an architecture office and reinstate the residential use

PERIOD OF COMPLIANCE: One month

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

The change of use of the basement to an architecture office is considered to be unacceptable in principle as it results in the loss of residential floor space and would set an unacceptable precedent. The works/internal

layout associated with the use has resulted in the loss of original fabric and has altered the original plan form harming the historic interest of the listed building and is thereby considered to be contrary to policies H3 and D2 of Camden's Local Plan 2017

2. Recommendation

That the Borough Solicitor be instructed to issue a Listed Building Enforcement Notice Under Section 38 of the Planning (Listed Building and Conservation Area) Act 1990 as amended, requiring all unauthorised works to the listed building to be removed and that historic features/features where possible are reinstated or replaced 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:

Without listed building consent the unauthorised erection of basement and ground floor rear extensions, together with unauthorised internal and external works

WHAT ARE YOU REQUIRED TO DO:

Within 6 months of the notice taking effect to:

Lower Ground floor

1. Remove existing ground and basement rear extensions, and make the development comply with the planning permission and listed building consent granted on 21st July 2015 granted under refs: 2014/7506/L and 2014/7441/P
2. Replacement external door on the front elevation to match the original design and of materials to match as closely as possible the materials used on the original/previous external door
3. Replace all internal wall with materials to match as closely as possible those used on the original/previous walls
4. Remove new slab and replace the flooring to its original/previous design in materials to match as closely as possible those used on the original/previous flooring
5. Remove existing staircase from ground floor and replace the staircase to the same detailed design of the original/previous staircase in materials to match as closely as possible those used on the original/previous staircase
6. Replace the internal nibs that have been removed between front and rear rooms to their original detailed design and of materials to match as closely as possible those used on the original/previous nibs that have been removed and reinstate the original plan form
7. Replace the chimney breast in the rear room to match the detailed design of the original/previous chimney breast in materials to match as closely as possible those used on the original/previous chimney breast that was removed
8. Remove existing front basement window and replace front window to match the detailed design of the original/previous window of materials to match as closely as possible those used on the original/previous basement front window;
9. Reconfigure the steps to the front lightwell to match the detailed design of the original/ previous front steps to the front of the lightwell of materials to match as closely as possible those used on the original/previous steps to the front lightwell;
10. Replace the basement floor to its original/previous height and replace the flooring to its original/previous detailed design of materials to match as closely as possible those used on the original/previous basement floor;

Ground floor

11. Remove the security gate boxes and buzzers that have been installed on the listed railings on the front elevation;
12. Remove any replacement flooring and reinstate the original/previous flooring located beneath the new flooring, or replace the flooring/floorboards to match the original/previous flooring/floorboards in materials to match as closely as possible the original/previous flooring/floorboards;
13. Remove existing architraves and replace the non- original architraves between the opening in the front and rear rooms to its original/previous detailed design of materials to match as closely as possible those used on the architraves that have been removed;
14. Replace cornicing to its original/previous detailed design of materials to match as closely as possible those used on the original/previous cornicing;
15. Remove existing fire surrounds and replace fire surrounds to its original previous detailed design of materials to match as closely as possible those used on the original/previous fire surrounds that have been removed;
16. Remove existing shutter that that has been installed above the new radiator in the ground floor front room and replace shutters to match the original/previous detailed design in materials to match as closely as possible those used on the original/previous shutters;
17. Remove the new radiator that has been installed in the ground floor front room and replace it to match the design of the previous radiator that stood in its place in terms of its detailed design and materials used;
18. Remove existing front window and replace with a window to match the detailed design of the window that was removed in materials to match as closely as possible those used on the original/previous window that has been removed
19. Remove the kitchen units in the rear ground floor room and replace the fire surround on the fireplace located in the rear ground floor room to match the original/previous detailed design in materials that match as closely as possible the original/previous fire surround;

First floor

20. Replace all cornices and ceiling roses that have been removed to match the detailed design of the original/previous cornices and ceiling roses of materials to match as closely as possible those used on the original/previous cornices and ceiling roses;
21. Remove existing windows and replace windows front and rear with windows that match the detailed design of the original/previous windows in materials to match as closely as possible those used on the original/previous windows located on the front and rear elevations;
22. Reinstate shutters located to the front and rear
23. Remove any replacement flooring and reinstate the original/previous flooring located beneath the new flooring, or replace the flooring/floorboards to match the original/previous flooring/floorboards in materials to match as closely as possible the original/previous flooring/floorboards;
24. Remove existing double doors and replace with double doors that match the detailed design of the original/previous double doors in materials to match as closely as possible those used on the original/previous double doors
25. Replace skirting boards to match the detailed design of the original/previous skirtings in materials to match as closely as possible those use on the original/previous skirtings
26. Replace architraves to match the detailed design of the original/previous architraves in materials to

match as closely as possible those use on the original/previous architraves

27. remove existing fire surrounds and replace fire surrounds to its original previous detailed design of materials to match as closely as possible those used on the original/previous fire surrounds that have been removed;

Second floor

28. Remove existing windows and replace windows front and rear with windows that match the detailed design of the original/previous windows in materials to match as closely as possible those used on the original/previous windows located on the front and rear elevations;
29. Remove any replacement flooring and reinstate the original/previous flooring located beneath the new flooring, or replace the flooring/floorboards to match the original/previous flooring/floorboards in materials to match as closely as possible the original/previous flooring/floorboards;
30. Replace skirting boards to match the detailed design of the original/previous skirtings in materials to match as closely as possible those use on the original/previous skirtings
31. Replace architraves to match the detailed design of the original/previous architraves in materials to match as closely as possible those use on the original/previous architraves
32. Remove existing doors and replace with doors that match the detailed design of the original/previous doors in materials to match as closely as possible those used on the original/previous doors
33. Remove the timber cladding and decorative screen that have been installed in the bathroom at second floor level and reinstate the ceilings and walls beneath and behind the timber cladding or replace the ceiling/walls to match the detailed design of the original/previous ceiling in materials to match as closely as possible those used on the original/previous ceiling;
34. Replace all cornices and ceiling roses that have been removed to match the detailed design of the original/previous cornices and ceiling roses of materials to match as closely as possible those used on the original/previous cornices and ceiling roses;
35. Remove any replacement flooring and reinstate the original/previous flooring located beneath the new flooring, or replace the flooring/floorboards to match the original/previous flooring/floorboards in materials to match as closely as possible the original/previous flooring/floorboards;
36. Reinstate the original plan form at second floor level

Third floor

37. Remove any replacement flooring and reinstate the original/previous flooring located beneath the new flooring, or replace the flooring/floorboards to match the original/previous flooring/floorboards in materials to match as closely as possible the original/previous flooring/floorboards;
38. Replace skirting boards to match the detailed design of the original/previous skirtings in materials to match as closely as possible those use on the original/previous skirtings
39. Replace architraves to match the detailed design of the original/previous architraves in materials to match as closely as possible those use on the original/previous architraves
40. Remove decorative timber cladding that has been installed over non-original timber battens and make good the timber battens
41. Remove timber cladding in bathroom and replace ceiling and walls to their original/previous detailed designs in materials to match those used on th original/previous ceiling and walls
42. Remove the new partition wall that has been installed at third floor level to create a bathroom and reinstate the original plan form at third floor level;

43. Remove existing windows (with the exception of the additional window installed that has the benefit of consent) and replace windows front and rear with windows that match the detailed design of the original/previous windows that were removed in materials to match as closely as possible those used on the original/previous windows located on the front and rear elevations;
44. Replace slates on rear roof slope

.Front elevation:

45. Remove the new plastic down pipe that has been installed on the front elevation (left hand side, then centrally), located at second floor to ground floor level and replace with a rainwater goods pipe on the front elevation to match the detailed design and location of the original/previous rain water goods pipe of materials to match as closely as possible the original/previous pipe (cast iron), and make good any damage resulting from the above works;

PERIOD OF COMPLIANCE: 6 Months

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

1. The rear extension, by reason of its design, scale, bulk and location, has a detrimental impact on the character and appearance of this part of the Camden Town Conservation area, on the character, appearance and setting of the host listed building and on the setting of the wider terrace of listed buildings of which the site forms apart. As such the proposal is contrary to policies D1 (Design) and D2 (Heritage) of Camden's Local Plan 2017.
2. The unauthorised internal works has resulted in the loss of some historic fabric and has interfered with the original plan form of this grade ii listed building. The replacement features are not commensurate to that which has been lost and materials used are considered to be detrimental to the character and appearance of this grade II listed building and therefore is considered to harm the special historic interest of the building and is thereby contrary to policy D2 of Camden's Local Plan 2017