

Date: 6<sup>th</sup> March 2023  
Your ref: APP/X5210/C/22/3313568  
Our ref: EN19/0315  
Contact: Jennifer Watson  
Direct line: 020 7974 4536  
Email: Jennifer.Watson@camden.gov.uk

**Validation & fast track team  
Regeneration and planning**  
Supporting Communities directorate  
London Borough of Camden  
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5 St Pancras Square  
London  
N1C 4AG  
Tel: 020 7974 8780 Fax: 020  
7974 1680  
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Dear Sir/Madam,

**Site at 4 Copperbeech Close, London, NW3 5RB  
Enforcement appeal re the erection of an extension at the rear of the property.  
Appeal by Mr Jonathan Gould**

The Enforcement Notice dated 8<sup>th</sup> November 2022 instructs that the Appellant:

1) Completely remove the single storey rear extension; 2) Make good the exposed elevations in materials to match the pre-existing situation; and 3) Remove any resultant debris from the premises as a result of the above works.

The Council's case for this appeal is largely set out in the officer's delegated report dated 13<sup>th</sup> October 2022 which was sent with the Questionnaire. The report recommends enforcement action within a period of three months. It sets out how the development is unacceptable on the grounds of heritage and design principles. The report also details the site and surroundings, the site history and full consideration of the planning issues.

In addition to the information sent with the questionnaire I would be pleased if the Inspector could take into account the following information and comments before deciding the appeal.

## **Summary**

The site comprises a two-storey residential property located on the northern side of Akenside Road. Although not listed, the building is located within the Fitzjohns/Netherhall Conservation Area.

On 8<sup>th</sup> April 2019, the Council was contacted about the authorised erection of a rear extension at the appeal property. Warning letters advised of enforcement action to be taken. When the extension remained in place, an enforcement notice was issued on 8<sup>th</sup> November 2022.

This appeal is made against the Enforcement Notice (ref: EN19/0315), under ground (a) (d) (f) & (g)

## **Status of Policies and Guidance**

The London Borough of Camden had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case.

The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on 03/07/2017 and has replaced the Local Development Framework Core Strategy and Camden Development Policies documents as the basis for planning decisions and future development in the borough.

The overall aims of the policies in the Local Plan, insofar as they relate to this case, are considered to be broadly similar to those in the Council's previous Local Development Framework.

The following policies and guidance are considered to be relevant to the determination of the appeal:

- National Planning Policy Framework 2012
- The London Plan 2016
- Policy D2 – Heritage
- Policy D1 – Design
- The Fitzjohns/Netherhall Conservation Area statement (March 2001)

### **Ground (d) Appeal:**

An appeal can be made under ground (d) if:

That, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.

The Appellants' grounds of appeal can be summarised briefly as follows and are subsequently addressed in the paragraphs beneath.

### **Appellant's Case**

At the time the Notice was served, the extension at the rear of the property, and the subject of the Notice, had become lawful, in that it had existed in excess of 4 years.

The wall that encloses the southern (side) and western (rear) walls of the extension are argued to have existed from when the house was originally built and the replacement roof structure is said to have existed by July 2018.

### **Council's Case**

The claim that the extension originally consisted of a garden wall and glazed roof with timber beams, housing a fridge freezer and fitted kitchen cabinet with sink, has been revealed as unfounded by Officer's investigations. Using Bing and Google satellite images, the Council is able to demonstrate that works to the extension were ongoing in 2020 and was yet to have its roof installed (see appendix A).

The various historic satellite images (prior to 2020) clearly show a garden which is fully exposed, not covered by timber beams and glazed roof as claimed by the Appellant. The as-built extension is approximately five metres long by five metres wide and occupies the entire rear garden, extending its full depth and width, up to the rear boundary. It is argued that the as-built extension uses the original garden walls and alleged roof, however Bing and Google satellite images appear to show that an original extension consisting of timber beams, glazed roof and original garden walls never existed, instead the extension has simply been built tightly within the existing garden walls.

Furthermore, neither the land registry site plan nor the estate agents photos of the garden (see appendix B) dated 2017 show an extension. Instead they again show a fully exposed garden space. The Appellant discusses “exhibit JG3” in their Statutory Declaration, a set of architectural drawings listed as “Plans and Elevations “as existing”” in the drawing title box. The Council notes the use of quotation marks around the word ‘existing’ by the person from Viaduct Surveying and Services who was commissioned to draw the plans. The Council has reached out to Viaduct Surveying and Services for comment but is yet to receive a response.

Furthermore, a completed Planning Contravention Notice, photographs and invoices submitted by Slingshot Construction Limited clearly show the freshly erected walls of the extension (see appendix C).

### **Ground (a) Appeal:**

An appeal can be made under ground (a) if:

In respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged.

The Appellants’ grounds of appeal can be summarised briefly as follows and are subsequently addressed in the paragraphs beneath.

### **Appellant’s Case**

The Appellant argues that the works have not resulted in the loss of amenity space, as the space had already been lost by previous works. They assert that a flat roof and walls have always existed in this location and the works involve an upgrade to an already existing building. This point is reiterated in the Appellant’s Statutory Declaration.

Given the extension’s location at the rear of the dwelling, it is argued that there is no visual interaction with the surrounding conservation area, therefore according with Policy D2 of Camden’s Local Plan.

As such, the Appellant concludes that the extension is justified as it does not adversely affect the appearance of the building or that of the adjoining conservation area.

### Council's Case

As discussed under the ground (d) appeal, Google and Bing satellite images show that the extension was not substantially complete by 2020, with historic satellite images showing a fully exposed garden prior to this. This is contrary to the Appellant's claim that an outbuilding existed prior to the erection of the current extension.

Furthermore, the Council argues that the extension is in fact visible from various public views, namely rear windows of properties on Daleham Gardens. The visibility of the extension from public vantage points along Copperbeech Close is not the only issue at stake in the test between benefit and harm required by Section 16 of the NPPF. The impact on amenity and the precedent that this may set must also be assessed. Without exception, all the properties on Copperbeech Close retain outside space and are considered to make a key contribution to the character and appearance of this part of the conservation area.

Special regard has been given to the desirability of preserving or enhancing the character and appearance of the conservation area, which includes the host building itself, under s.16 and s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013. The Fitzjohns/Netherhall Conservation Area statement (March 2001) specifically mentions Copperbeech Close as a positive contributor. On the contrary, the extension is considered to damage the conservation area as it results in an excessive addition in both depth and width, especially in relation to the size of the garden. It is not read as a subservient addition to the property which respects the building and has resulted in the complete loss of any garden space. As a consequence, the amenity value of the garden to future occupants has also been removed in its entirety.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, as outlined in Section 16 of the NPPF, this harm should be weighed against the public benefit. Harm to a conservation area gives rise to a strong presumption against planning permission being granted; the Council can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation. Whilst the hostile addition is

considered to have a less than substantial impact on the conservation area, as there is no public benefit from the erection of the extension, the harm is not justified. In the absence of strong public benefit, the proposal is considered to be contrary to Section 16 of the NPPF which seeks to preserve and enhance heritage assets and policies D1-Design and D2 Heritage

This extension completely encloses all the outdoor amenity space of the property, this is contradictory to policy D1(Design of the Local Plan)

### **Ground (f) Appeal:**

An appeal can be made under ground (f) if:

The steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

The appellants' grounds of appeal can be summarised briefly as follows and are subsequently addressed in the paragraphs beneath.

### **Appellant's Case**

The Appellant argues that the steps required to remedy the breach could be satisfactorily managed by removing only the roof of the extension, rather than the walls, which are argued to have been built when the original house was constructed. The Appellant argues that in doing so, private amenity space would be adequately provided for.

### **Council's Case**

As argued against the Appellant's Ground (d) Appeal, the Council disputes the claim that the extension was built using the original garden walls. Satellite images fail to clearly show the

walls of the as-built extension. The Council therefore argues that the entirety of the extension must be removed from the appeal property in order to remedy the breach.

### **Ground (g) Appeal:**

An appeal can be made under ground (d) if:

That the time given to comply with the notice is too short.

### **Appellant's Case**

The Appellant states that the time frame of three months allowed by the Notice is inadequate. In view of the shortage of building contractors, it is argued that there would be insufficient time to carry out the works.

### **Council's Case**

Should the inspector be minded to dismiss the appeal, the Council would raise no objections to extending the timeframe for compliance to six months.

### **Conclusion**

**The appellants evidence that the extension is over four years old is contradicted by independent photographic evidence that clearly show the area was an open garden**

The extension is unacceptable on design and conservation grounds, owing to its size and scale, which leads to overdevelopment of the site and the loss of outdoor amenity space, which would have a negative impact on the future use of the property and the appearance of the host property and the wider conservation area.

On the basis of information available and having regard to the entirety of the Council's submissions, including the content of this letter, the Inspector is respectfully requested to dismiss the appeal against the enforcement notice.

**Conditions**

The works have already been carried out. Conditions cannot be attached which would control the development or mitigate the harm that has been caused.

If any further clarification of the appeal submissions is required, please do not hesitate to contact Jennifer Watson on the above direct dial number or email address.

Yours sincerely,

Jennifer Watson  
Planning Officer  
Appeals & Enforcement  
Supporting Communities Directorate



**Appendix A**



Pre-existing

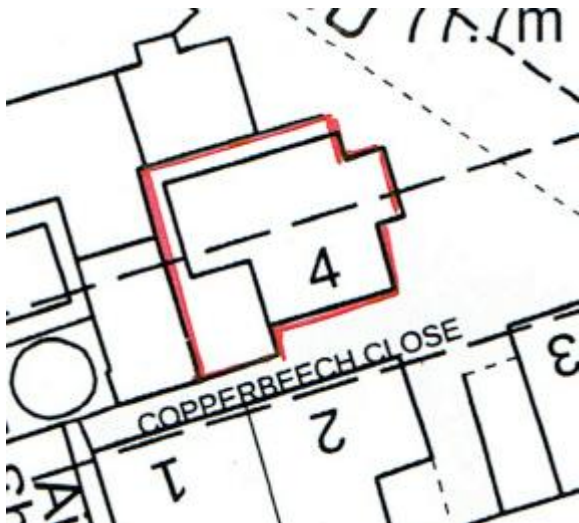


During Works



Dated Satellite Image (11<sup>th</sup> April 2020)

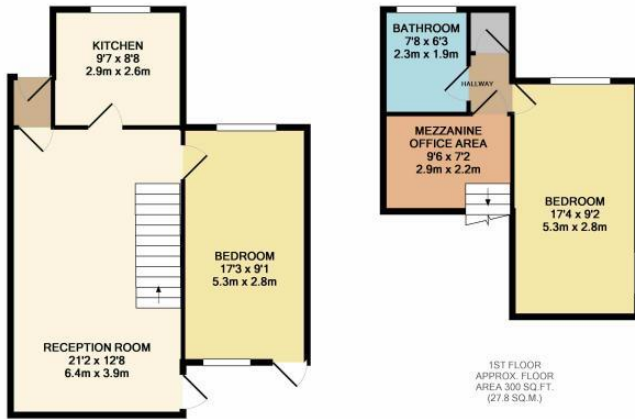
### Appendix B



Land registry Title Plan (2022)



Sold for £891,000



GROUND FLOOR  
APPROX. FLOOR  
AREA 519 SQ. FT.  
(48.2 SQ.M.)

1ST FLOOR  
APPROX. FLOOR  
AREA 300 SQ. FT.  
(27.8 SQ.M.)

TOTAL APPROX. FLOOR AREA 819 SQ. FT. (76.1 SQ.M.)

Whilst every attempt has been made to ensure the accuracy of the floor plan contained here, measurements of doors, windows, rooms and any other items are approximate and no responsibility is taken for any error, omission, or mis-statement. This plan is for illustrative purposes only and should be used as such by any prospective purchaser. The services, systems and appliances shown have not been tested and no guarantee as to their operability or efficiency can be given.  
Made with Metropix 52017

Philip Arnold Auctions Brochure Photograph and Plans (2017)

## Appendix C







**Item 5: PLANNING CONTRAVENTION NOTICE QUESTIONNAIRE**

**PLEASE COMPLETE ALL QUESTIONS BELOW AND DELETE INAPPROPRIATE WORDS**

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**THIS COPY TO BE RETURNED TO:**

**Appeals and Enforcement Team  
Culture and Environment  
London Borough of Camden  
Argyle Street  
London  
WC1H 8ND**

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**SCHEDULE 1**

**Land to which the Notice relates: 4 Copperbeech Close, London, NW3 5RB**

**SCHEDULE 2**

Breach of planning control, which may have occurred:

**i) The erection of a single story rear extension**

**SCHEDULE 3** In response to the attached planning contravention notice relating to the erection of a single-story rear extension you are requested to provide the following information by Camden Council under the terms of Section 171C (2) & (3) of the Town and Country Planning Act (1990) as amended by the Planning and Compensation Act (1991). You must respond to all the questions. Your response should relate to the matters described in Schedule 2 which may constitute a breach of planning control. You must return this Schedule within 21 days, beginning with the date of this notice.

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1. Please state your name and permanent address (if a company please state registered name, address and company secretary; if a partnership please state names of other partners and address for service of documents):

Joseph Chibley  
107 Kenilworth Road  
Edgware  
middlesex  
HA88XB

2. Please state the nature of your interest in the property described in Schedule 1 (delete as appropriate):

(i) contractor

Building Contractor / Designer

3. When did you first visit the property and when did works commence?

Visited site 2017 / 2018  
Works commenced 2018

6. When you first arrived at the property, what was the layout of the building?
-



Exactly the same as the layout provided by the agent Philip Arnold showing the doors from bedroom leading into the garden including door from reception room leading into the garden

Details attached

7. Please provide any construction plans, demolition statements, insurance documents or contracts.

Please see attached schedule of works / budget costs which formed our contract prepared by the client J Gould

Excel spreadsheet

8. Please provide a list of all professionals engaged in the works, e.g. party wall surveyors, engineers, sub-contractors, building control, architects, planning consultants etc.

London Building Control

See attached – please read description of works as “refurbishment only” no construction works or basement works included

7. Please provide a sketch of the building showing the layout of the property prior and post works.
-

Exactly the same layout / measurements as per the agents Philip Arnold site details

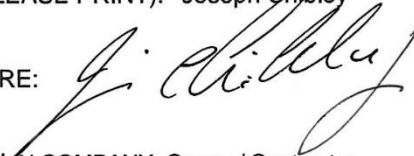
Please see attached

**TO BE COMPLETED IN ALL CASES**

I declare that the information I have provided in completing this questionnaire is true and accurate to the best of my knowledge:

NAME (PLEASE PRINT): Joseph Chibley

SIGNATURE:



POSITION IN COMPANY: Owner / Contractor

DATE: 20/05/2022

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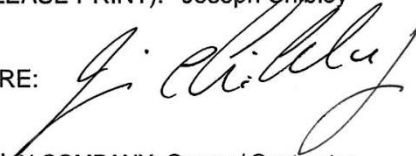
Exactly the same layout / measurements as per the agents Philip Arnold site details  
Please see attached

**TO BE COMPLETED IN ALL CASES**

I declare that the information I have provided in completing this questionnaire is true and accurate to the best of my knowledge:

NAME (PLEASE PRINT): Joseph Chibley

SIGNATURE:



POSITION IN COMPANY: Owner / Contractor

DATE: 20/05/2022

