



Appeal Decision

Site visit made on 20 March 2025

by Andy Harwood CMS MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2025

Appeal Ref: APP/X5210/C/24/3344524

Akenside Court, 26 Belsize Crescent, London NW3 5QT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act). The appeal is made by Mr Michael McHale against an enforcement notice issued by the Council of the London Borough of Camden.
- The notice was issued on 9 April 2024.
- The breach of planning control as alleged in the notice is: Without planning permission - erection of a glass balustrade around roof.
- The requirements of the notice are to:
 - 1) Permanently remove the glass balustrade that has been installed at roof level; and
 - 2) Remove any resultant debris from the site and repair any damage caused as a result of the above works.
- The period for compliance with the requirements is: One (1) month.
- The appeal is proceeding on the ground[s] set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a glass balustrade around the roof, at Akenside Court, 26 Belsize Crescent, London NW3 5QT, as shown on the plan attached to the notice.

Preliminary Matters

2. Since the notice was issued, the Council has granted planning permission for alternative glass balustrades and suggests that I should alter the wording to allow for the alternative to be implemented. Whilst I can see the logic of that suggestion, it is unnecessary because s180(1) of the Act states that, amongst other things, where after service of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.

Appeal on ground (a)

3. Under this ground of appeal, I have to consider whether planning permission ought to be granted for the matters stated as the breach of planning control.

Main issues

4. The first main issue is the effect of the development on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the Fitzjohn's/Netherhall Conservation Area (the CA).

The second is the effect of the related use of the roof of the building on living conditions of neighbouring properties by reason of privacy.

Reasons – character and appearance

5. The appeal site is positioned at the confluence of Akenside Road, Lyndhurst Gardens and Belsize Crescent, the building is in a prominent position with the front elevation easily seen from each of these roads. Akenside Court is a 5-storey block of flats with a flat roof and curved footprint, following the line of the roads, albeit set back from the footpath behind a brick wall. It dates from the 1960s and has a simple form constructed mainly of red-brick with windows providing a horizontal emphasis.
6. This is a mainly residential area with many of the buildings nearby being Victorian terraces and villas with more ornate detailing and vertical emphasis. Adjacent to the appeal site is the grade II listed 24 Belsize Crescent, which the appellant's appraisal identified as "a late nineteenth century redbrick semi-detached terrace in Queen Anne style, likely built by the architect and builder William Willett as part of their 'Belsize Court' development." The Council's CA Appraisal and Management Plan refers to the mix of styles however Queen Anne architecture is specifically stated as being the predominant style.
7. In this context, Akenside Court and the adjoining modern 4 storey building to the north-east of the appeal site (Roscommon House) contrast with the prevailing character and appearance of nearby buildings within the CA. The glass balconies on Roscommon House are in a different context. As referred to above, the Council has approved the use of glass on the roof of the appeal building albeit to a lesser extent on both ends of the roof.
8. The Council's Home Improvements Planning Guidance (HIPG) includes some advice about what is normally appropriate for balconies in the Borough. This includes that balconies should be located at the rear to ensure no impact on the street-scene. Whilst that may generally be the case each development needs to be considered on its individual merits. The HIPG also refers to the need for sensitive design appropriate to its context. The Camden Local Plan, 2017 (LP) Policy D1 also requires high quality design that respects context and character.
9. The glass balustrade is along the roof-level of the building and follows the curve of the structure. From street level it can be seen although the clear, colourless glass and the lack of any supporting frame means that the background of the top-floor level elevations are very visible. I could only just see the glazing against the sky in some places when looking from the street on a clear, sunny spring day. I also saw it from the side when I walked up the footpath leading from Belsize Place. However, the structure is subtle, blending well with the building complementing its horizontal emphasis. Whilst it is a modern addition, the building has a modern appearance relative to much of the CA and the change is harmonious. Although in a high position within the street-scene, it is a nuanced change of this building that has little wider impact. I can understand the concern that if not properly maintained, the glass structure may become more noticeable but I do not consider that the risks of that should be overriding particularly as it would be in the occupants' best interests to maintain and clean the structure properly.
10. In relation to this main issue, the development has an acceptable effect on the character and appearance of the area which preserves the character and

appearance of the CA. This would also preserve the setting of the adjoining grade II listed building at No 24 Belsize Crescent. This complies with LP Policy D1 as this development respects its context and which preserves the historic environment, also in compliance therefore with LP Policy D2.

Reasons – living conditions

11. There is some discussion within the representations about whether the roof is already used as a terrace. However, the balustrade has been installed, on top of a parapet wall that pre-existed it. The use of that area was physically possible. The Council refers to the lack of any reference to a “terrace use” on the original planning permission. However, use of any land within the same planning unit as the flat would not normally require planning permission if it were used for purposes ancillary to the occupation of that flat, such as use for amenity space.
12. From the photographic evidence, it appears that the area could have been used reasonably safely without the balustrade but adding to the height of the parapet clearly makes it much safer. Adding the additional height would for example allow for young children to play outside without adults having to watch over them, for example. This may therefore result in some more use of the roof as an amenity area. However, even if it were to add to a significant amount of additional activity, planning permission has been given for the balustrade on the 2 sides of the roof. The effects of retaining the whole development would make no difference to the amount of over-looking of the neighbouring properties on either side. Furthermore, the main front of the building and therefore the balustrade, face towards the substantial space around junction of the 3 roads. Additionally, the nearest dwellings on the opposite side of the road from the appeal site are at a considerable distance away from the roof-terrace. The development does not therefore lead to any significant additional overlooking of those properties.
13. In relation to this main issue, any additional use of the roof of the building does not have a harmful impact upon living conditions of neighbouring properties. This complies with LP Policy A1 which strives to protect the quality of life of occupiers and neighbours and only permitting development that causes unacceptable harm to amenity.

Other matters

14. It is unnecessary to attach any planning conditions because the development is already completed and is acceptable.

Conclusion

15. For the reasons given above, I conclude that having had regard to the development plan as a whole and all other material considerations, the development is acceptable. The appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice. The appeal on ground (g) does not therefore fall to be considered.

Andy Harwood

INSPECTOR