

Delegated Report (Non-determination Appeal)		Analysis sheet		Expiry Date:		18/01/2024	
		N/A / attached		Consultation Expiry Date:		25/02/2024	
Officer				Application Number(s)			
Jaspreet Chana				2023/4996/P			
Application Address				Drawing Numbers			
Frognal Cottage 102 Frognal London Camden NW3 6XU				See draft decision notice			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Erection of two storey side extension and associated works							
Recommendation:		Planning permission would have been refused had an appeal against non-determination not been received.					
Application Type:		Householder Application					

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice			
Informatives:				
Consultations				
Summary of consultation:	<p>Three site notice(s) were displayed near to the site on the 26/01/2024 (consultation end date 19/02/2024).</p> <p>The development was also advertised in the local press on the 01/02/2024 (consultation end date 25/02/2024).</p>			
Adjoining Occupiers:	No. of responses	01	No. of objections	01
Summary of consultation responses:	<p>One objection was received from neighbouring residents (20 Frognal Gardens), there objection is summarised below:</p> <ul style="list-style-type: none"> <i>I would like it noted that the build will adversely affect the view from our living room and garden. The planning consultant letter says, "I did not get the impression that the proposed side wing would be particularly noticeable in any private views from the backs of properties on Frognal Gardens" (pg. 6 point 24). This, in my opinion, is not true.</i> <i>The build will alter the vantage point we have, the depth of our view reduced and currently beautifully green (see image). I hope we can make our garden greener, and that Dr Chan's trees grow to provide some screening.</i> <p><i>Officer's response: Please see sections 3, 4 and 5 below.</i></p>			

Site Description

102 Frognal is a three-storey detached dwellinghouse dating from the 19th century, situated on the eastern side of Frognal within the Hampstead Conservation Area. The property is not listed but is described as a positive contributor to the conservation area in the Hampstead Conservation Area Statement. Nearby listed buildings: Nos.104 – 110 directly to the north of the site are all Grade II Listed. The application building adjoins no.104, an 18th century house, at its north-east corner.

Site History

The property had permission to build a side single storey double garage back in 1961, a conservatory was further added to the first floor in 1970.

In 2005, the applicants applied (2005/1284/P) to demolish the existing two storey side extension (garage and conservatory) and erect a two storey dwellinghouse with a double garage. This application was approved but never implemented.

In 2010, renewal of extant planning permission ref 2005/1284/P above was resubmitted. This application was approved but never implemented.

In 2018, permission was refused for erection of replacement first floor side extension following demolition of existing conservatory (2018/2882/P).

In 2020, permission was granted for: Alterations and extensions including replacement of the existing conservatory by a new first floor side extension, alterations to the existing garage, erection of a single-storey rear extension, re-roofing and repairs to the main house and installation of side elevation windows (ref 2020/3418/P).

Following this a pre-application was submitted to the council for a 'principal of side extension to the existing side extension. A site visit was undertaken on this application and brought to light the discrepancies between the approved scheme (2020/3418/P) and the built unauthorised two storey structure present.

In 2022, another application was submitted for *Alterations and extensions to the existing two storey side extension including a change to roof profile, front and rear dormer windows, the formation of an undercroft and installation of sliding doors on the ground floor at the front and a new chimney (retrospective application)*. The council recommended refusal to this application (2022/5138/P). The refusal was then appealed, and the retrospective two storey garage extension was allowed (APP/X5210/D/23/3324781 in 2023).

Relevant History

The planning history for the application site can be summarised as follows:

Recent history

On 10/12/2020 (2020/3418/P) permission was granted for "Alterations and extensions including replacement of the existing conservatory by a new first floor side extension, alterations to the existing garage, erection of a single-storey rear extension, re-roofing and repairs to the main house and installation of side elevation windows. On 19/8/2022 (2022/3053/P), details of joinery, railings and brick sample pursuant to conditions 4a & b and 5 were approved.

An enforcement case (EN22/0710) was opened relating to a potential breach of planning permission, that a two-storey side extension had been erected, but not in accordance with the above approved drawings. The case remains open while the proposal the subject of the current

planning application is under consideration.

Following the above, on 04/05/2023, permission was refused for (2022/5138/P) for: "Alterations and extensions to the existing two storey side extension including a change to roof profile front and rear dormer windows, the formation of an undercroft and installation of sliding doors on the ground floor at the front and a new chimney (retrospective application)." On 14/09/2023A a subsequent appeal (APP/X5210/D/23/3324781) was allowed.

Older history

On 12/07/2022, (2022/1572/P) permission was granted for "Replacement of single-glazed timber sash windows with double-glazed timber sash windows on the front and rear elevations and the replacement of a rear external door".

On 20/08/2019. (2018/4547/P) permission was granted for a "Single storey rear extension and excavation of basement to dwelling including no.1 rear lightwell. Installation of rooflights and replacement to windows to main house, relandscaping to rear garden'.

On 11/05/2018, (2018/1046/P) permission was granted for "Alterations to side/rear wing roof; Replacement front door and gate; Erection of external bin store; Replacement windows to rear ground floor level".

On 03/08/2010, (2010/2071/P) permission was granted for - renewal of extant planning permission ref: 2005/1284/P approved on the 09/09/2005 for the demolition of existing garage and conservatory and erection of new 2-storey dwelling house with garage.

On 16/07/2007, (2007/2470/P) permission refused for demolition of existing conservatory and garage and erection of a new 3-storey plus basement dwellinghouse with integral garage and forecourt parking. Appeal dismissed ref APP/X5210/A/07/2058516.

On 03/04/2007, (2006/5581/P) permission was refused for demolition of existing conservatory and garage and the erection of a new 3-storey plus basement dwellinghouse with integral garage and forecourt parking.

On 03/08/2006, (2006/1685/P) permission was refused for demolition of existing conservatory and garage and the construction of a new 3-storey dwellinghouse with integral garage and forecourt parking.

On 09/09/2005, (2005/1284/P) - permission was granted for demolition of existing garage and conservatory and erection of new 2-storey dwellinghouse with garage.

National Planning Policy Framework (2023)

The London Plan (2021)

Camden Local Plan (2017)

- **A1** Managing the impact of development
- **A3 Biodiversity**
- **D1** Design
- **D2** Heritage

The Council is in the early stages of updating the local plan. It is not envisaged that there would be material differences with the current plan in relation to this appeal. Furthermore, there are no material

differences between the local plan and the NPPF in relation to this appeal.

Camden Planning Guidance:

- CPG Amenity (2021)
- CPG Design (2021)
- CPG Home Improvements (2021)

Hampstead Neighbourhood Plan 2018

- Policy DH1: Design
- Policy DH2: Conservation areas and listed buildings

Hampstead Conservation Area Statement

Assessment

1. The proposal

1.1. Planning permission is sought for:

- **Erection of two storey side extension and associated works.**

The proposal is described in paragraph 3 in detail. The following shows images as follows:



Fig.1 Photos of original house and side garden and conservatory extension



Fig.2 Photo of property in 2022 the applicant bought the house and then replaced the original side garage extension with the above two storey extension without permission.

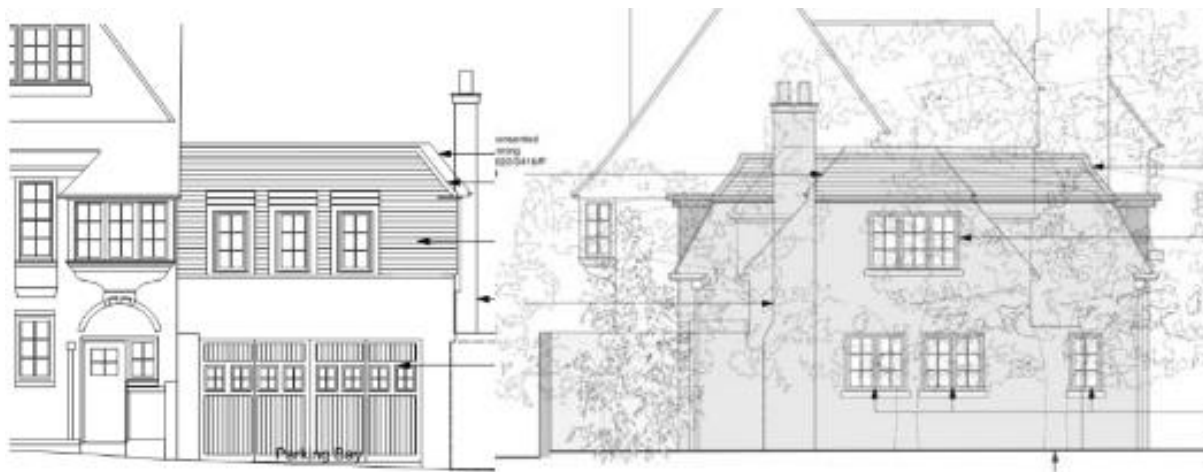


Fig.3 The above proposed plan is what got allowed by the appeal scheme in 2023.

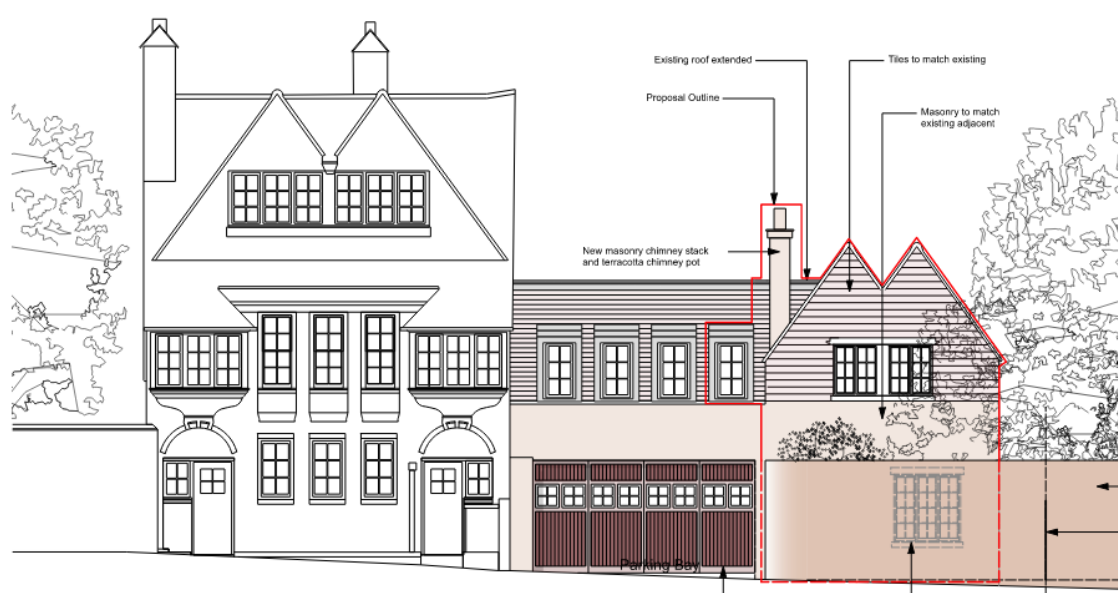


Fig.4 The current proposed two storey side extension to attach onto the existing two storey extension.

2. Assessment

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

- Design and Conservation
- Neighbour Amenity
- Trees

3. Design and Conservation

3.1. Local Plan Policy D1 (Design) is aimed at achieving the highest standard of design in all developments. Policy D1 requires development to be of the highest architectural and urban design quality, which improves the function, appearance, and character of the area. Policy D2 (Heritage) requires that development within conservation areas preserves or, where possible, enhances the character or appearance of the area.

3.2. Policy DH1 of the Hampstead Neighbourhood Plan states that “Development proposals should demonstrate how they respect and enhance the character and local context of the relevant character area(s) by: a. Ensuring that design is sympathetic to established building lines and

arrangements of front gardens, walls, railings or hedges.” Policy DH2 of the Neighbourhood Plan seeks to ensure that proposals seek to protect and/or enhance buildings which make a positive contribution to the Conservation area.

- 3.3. 102 Frognal is not listed but is highlighted within the Hampstead Conservation Area Statement making a positive contribution to the conservation area, and as such, significant importance is placed on the preservation and enhancement of its appearance and setting. Nos 104-110 directly to the north of the site, and Nos. 79, 81, 83 and 95 directly opposite to the west, are all Grade II listed. No. 102 is partly physically attached to no. 104, and with so many listed buildings in close proximity, any proposal needs to be sympathetic to this section of the lane, and the setting of the neighbouring listed buildings.
- 3.4. Frognal (the road) is the backbone of sub-area 5 of Hampstead conservation area. The verdant character of the lane, which is a significant characteristic of this part of the conservation area, arises from the presence of garden trees and vegetation. The roadway is too narrow for on-street trees and planting. The winding country lane character of Frognal (the road) and the retained village character of Frognal (the area) is maintained by the presence of these trees and other garden vegetation.
- 3.5. No.102 Frognal, built in the 1880s, occupies the kerbside on the east-side of the lane immediately south of Nos.104 and 106, built around 1762 and very much part of the earlier hamlet. The Georgian houses are now Grade II listed. The host building is a compact, detached Arts & Crafts style house. The curve of the road and the forward position of the house means that No.102 contributes prominently and positively to both the setting of the listed buildings adjacent as well as to the character and appearance of the streetscape/conservation area. The relatively modest massing and proportions of the house mean that the building does not appear to dominate its site.
- 3.6. To the south of No.102, where the new extension is proposed, the land originally formed part of the garden to the adjacent No.100. It is currently occupied by trees which fortuitously limit the view of the southern flank of No.102 maintaining a bucolic street view towards the north. The front roadside walls either side of No.102 (those associated with the listed building being curtilage listed) are specifically identified as making a positive contribution to the streetscape within the conservation area appraisal. The property’s garage side extension was considered to date circa 1960.
- 3.7. Alterations and extensions to the existing two storey side extension including a change to roof profile, front and rear dormer windows, the formation of an undercroft and installation of sliding doors on the ground floor at the front and a new chimney (retrospective application) was built without planning permission. An application was submitted (2022/5138/P) and refused, this decision was appealed (APP/X5210/D/23/3324781) and was allowed.
- 3.8. Although this two-storey built extension was allowed at appeal officers considered the extension to be heavy and lumpen and visually boring. The ground floor recess was contrived and added nothing to the architectural composition. The footprint of the extension was excessive with a flat overly heavy crown roof. The unauthorised built extension did not enhance nor better reveal the significance of the conservation area.
- 3.9. The proposal to add an additional extension to what is clearly already an extension to the original house is not supported. The historic permission for building on this garden plot (ref 2005/1284/P renewed under 2010/2071/P) is not taken as a precedent. The previous approval was granted 14 years ago under a superseded Development Plan. The understanding of architectural significance, and the importance of, and contribution that buildings and open space make to the character of an area have evolved greatly over the last two decades, as has the framework under which decisions are made.
- 3.10. The proposed two storey side extension would be attaching onto the approved garage extension. To marry well with the host building the new extension should appear to be subservient

without competing with it. Officers consider that although the gable design on the southern end of the extension creates a visual interest and might be said to mitigate the lumpen appearance of the middle garage extension, the whole extension has become too long, deep, and bulky. The increased height and block like form of the extension would accentuate its bulk and mass which would result in it being a dominant feature within the street scene.

- 3.11. The proposed building is an extension to the existing extension and would over-occupy both the street frontage and the plot. Being on the inner curve of the elbow of the road the current house has visual prominence, thus there is the possibility that the extended building would visibly further crowd this part of the lane.
- 3.12. The proposed extension would also result in undesirable loss of garden space and erosion of the historic green spacing between No.102 and 100. The current gap and greenery between No.100 and No.102 is considered important in maintaining the open and verdant character of the lane.
- 3.13. Officers are aware that there are other side extensions within the Conservation Area, however, in this case, the proposal would effectively be an obtrusive and incongruous feature which would detract undesirably from the sensitive surroundings of this part of the Conservation Area. The proposed extension would be contrary to policy D1 of the Camden Local Plan 2017 which requires that all new development should be designed to a high standard. Furthermore, policy D2 makes it clear that the Council will only grant consent for development in a Conservation Area that preserves and enhances the special character or appearance of the area.
- 3.14. Officers conclude that the proposed two storey side extension would not preserve nor enhance the character or appearance of the host building or this part of the Hampstead Conservation Area and, the Conservation Area as whole and should therefore be refused.

4. Neighbour Amenity

- 4.1. Policy A1 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. It seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of neighbouring residents. This includes privacy, outlook, daylight, and sunlight.
- 4.2. The siting of the proposed extension would be closest to the front bay window of No.100 Frognal and its side elevation where windows do not appear to serve habitable rooms. Given the siting and nature of the proposal compared to the existing arrangement, no significant new impacts on neighbour amenity would result from the proposal. No windows or openings are to be added in the side elevation of the new two storey extension. A terrace area is proposed to the first-floor rear new living room, the terrace balcony feature would project 1.5m in depth, be 6m wide and 1.5m in height. A frosted glass privacy screen is proposed to be added to the end of the terrace on the side of 100 Frognal boundary. Although the height of the screen is high it is considered that this feature would be acceptable and would help mitigate any potential overlooking towards neighbouring properties.
- 4.3. There is also heavy tree screening to the side boundary with No.100 Frognal to the south with high front boundary walls and the setting of the subject extension back from the front elevation, would substantially limit views of the proposed extension on the approach from the south along Frognal and from the junction of Frognal Gardens with Frognal over the garden of No.100. Also, the fact that there was a previously first floor side conservatory with windows in this similar position, it is not considered there would be any undue harm to the amenities of the neighbouring residents at 100 Frognal.
- 4.4. Overall, it is not considered the proposed extension would be likely to have any greater visual impact than what the existing garage extension has on the neighbouring sites due to the

orientation of the building and the distances to the neighbouring properties. Therefore, the application is considered acceptable on amenity grounds.

5. Trees

5.1. Policy A3 Biodiversity - The Council will protect, and seek to secure additional, trees and vegetation. The Council will:

- **j.** Resist the loss of trees and vegetation of significant amenity, historic, cultural or ecological value including proposals which may threaten the continued wellbeing of such trees and vegetation.
- **k.** Require trees and vegetation which are to be retained to be satisfactorily protected during the demolition and construction phase of development in line with BS5837:2012 'Trees in relation to Design, Demolition and Construction' and positively integrated as part of the site layout.
- **l.** Expect replacement trees or vegetation to be provided where the loss of significant trees or vegetation or harm to the wellbeing of these trees and vegetation has been justified in the context of the proposed development.
- **m.** Expect developments to incorporate additional trees and vegetation wherever possible.

5.2. Officers did request the agents to submit a tree constraint plan and an arboricultural report, but the applicants declined to provide this information. According to Camden's local plan 'applicants are required to take measures to the Council's satisfaction to minimise any adverse impacts from development on retained and proposed trees and vegetation. This includes the potential risk of damage arising from demolition or construction works and development which fails to allow sufficient space above and below ground to prevent damage to root systems or facilitate future growth'. However, the appellant has included an 'Arboricultural Method Statement' within their appeal statement (Annexe 5). Officers can confirm that no trees are proposed for removal to facilitate the development. The impact of the scheme on the trees to be retained is likely to be of an acceptable level subject to suitable tree protection measures to be secured. If the appeal was to be allowed a condition to secure tree protection measures would be secured. The proposal would therefore be in accordance with planning policy A3.

1. Appeal Submitted on Grounds of Non-Determination

1.1. The appellant's grounds of appeal can be summarised as follows and are addressed below. It is not considered that the appellant's grounds of appeal would overcome the reasons council's objection to the proposal.

Grounds of appeal regrading design, heritage and trees

1.2. The appellant's grounds of appeal are similar to the planning application's design and access statement. In addition, however, new information has been submitted regarding trees. Originally officers had asked for a tree constraints plan and an arboricultural report for the site as the proposed new two storey extension would be encroaching towards the trees along the boundary with No.100 Frognaal. An Arboricultural Method Statement has been provided with the appellant's statement (in Annexe 5) and this has been reviewed by the council's tree officers. Officers can confirm that no trees are proposed for removal to facilitate the development. The impact of the scheme on the trees to be retained is likely to be of an acceptable level subject to suitable tree protection measures to be secured. If the appeal was to be allowed a condition to secure tree protection measures would be secured. The proposal would therefore be in accordance with planning policy A3.

1.3. Further points raised in regard to design and heritage have been addressed in the council's assessment above in sections 3 and 5.

1.4. A comment about the processing of the application was made on the appellant's statement within point 1.

1.5. Officers can confirm that the application was validated on 23/01/2024, the agents were sent a validation email which the agents have attached to their appeal statement in appendix 1. The agents were advised of some missing documents and that there could be impacts on the trees on the site which has not been addressed and that a tree plan and arboricultural report should be submitted. The agents were also advised the application needs to undergo a consultation period and to agree to an extension of time to determine the case. The agents said 'Thanks for confirming validation/registration. I confirm that the covering letter submitted with the application was, as it says, the planning and heritage statement. It covers design issues. No trees will be affected by the proposal. My client is unwilling to agree an extension of time'. Officers would like to confirm that the appellant was unwilling to agree to an extension of time with the Council.

6. Recommendation

6.1. Refuse Planning Permission

6.2. Reasons for Refusal:

6.3. The design, scale, and bulk of the proposed two storey side extension significantly detracts from the architectural character of the host building, the architectural and historic merits of neighbouring Listed buildings and the character and appearance of the conservation area. The proposal is therefore contrary to policies D1 and D2 of the Camden Local Plan and policies DH1 and DH2 of the Hampstead Neighbourhood Plan.

7. Suggested Conditions (should the appeal be allowed)

- 1) The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: EX-001, EX-010, EX-100, EX-101, EX-102, EX-300, EX-301, EX-302, PL-100, PL-101, PL-102, PL-300, PL-301, PL-302, Cover letter including planning and heritage statement dated 22/11/23.

Reason: For the avoidance of doubt and in the interest of proper planning.

- 3) Before the relevant part of the work is begun, detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority:

a) Manufacturer's specification details of all facing materials (bricks, roof tiles, windows, and terrace railings) to be submitted to the Local Planning Authority and samples of those materials (to be provided on site).

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1) of the London Borough of Camden

Local Plan 2017.

- 4) Prior to the occupation of the development, full details of the privacy screen screening to reduce instances of overlooking and loss of privacy to neighbouring occupiers shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details thereby approved and permanently maintained thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy A1 of the London Borough of Camden Local Plan 2017.

- 5) Prior to the commencement of any works on site, details demonstrating how trees to be retained shall be protected during construction work shall be submitted to and approved by the local planning authority in writing. Such details shall follow guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction". All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained, and protected from damage in accordance with the approved protection details.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.