



The Planning Inspectorate

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APPEAL ALLOWED

Mr John L Renton RIBA ARIAS
19 North End
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NW3 7HR

Your Ref: PW9802046R2 & CW9802047R2
Our Ref: T/APP/X5210/A/99/1016585/P2
T/APP/X5210/E/99/1016584/P2
Date: 27 MAY 1999

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78 AND SCHEDULE 6
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990
SECTION 20 AND SCHEDULE 3
APPLICATION NOS: PW9802046R2 and CW9802047R2**

1. The Secretary of State for the Environment, Transport and the Regions has appointed me to determine your appeals against the decisions of the Council of the London Borough of Camden to refuse the following at 19 North End, London NW3:

Appeal A: planning permission for the demolition of a single storey double garage and garden store, and proposed 2 bedroom cottage with integral garage on the site of the existing garage, a new single storey double garage below the existing garden and a new entrance gate;

Appeal B: conservation area consent for demolition of a double garage.

I conducted a hearing on 5 May 1999.

2. The Council stated at the hearing that it considers that consent would not be required for the demolition of the garden store; I see no reason to disagree with that view. The Council also confirmed that its decisions were made using the revised drawings which were submitted during the application period, and I am considering these appeals on the basis of those drawings.

3. From the representations made at the hearing and in writing, and from my inspection of the site and surrounding area I consider the main issue in these cases to be the effect of the proposal on the character and appearance of the surrounding area, which includes the Hampstead Village Conservation Area, the Hampstead and Highgate Ridge Area of Special Character, and Hampstead Heath which is Metropolitan Open Land (MOL).

4. The development plan for the area is the Greater London Development Plan and the Borough Plan (BP), adopted in 1987. There is an emerging Unitary Development Plan

(UDP). Proposed modifications, made following the Inspector's recommendations, have been placed on deposit, and objections are at present under consideration. The UDP is therefore a material consideration, as is the Council's draft Supplementary Planning Guidance Document (SPG) which has been subject to public consultation. I am considering those policies which I consider to be of particular relevance to these appeals. BP policy UD3 relates to design, while UD14 and UD18 seek to protect areas of special quality and character, including conservation areas. UDP policy EN16 requires proposals to be sensitive to, and compatible with the scale and character of their surroundings. Policy EN33 relates to conservation areas, and policy EN40 to trees in those areas.

5. In reaching my decision I am taking into account the fact that Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

6. The dwellings along North End form part of an enclave which penetrates into Hampstead Heath. North End turns from being a surfaced road at its southern end into an unmade track outside the site, from where it takes on a rural character. Aside from some terraced houses at Wildwood Grove to the north-west of the site, development to the north of the site in general becomes progressively less dense and more rural. The proposal is for the garden of the existing house on the site to be subdivided, and for the cottage to be built in the northern part of that garden which is adjacent to the heath.

7. The site slopes upwards from North End towards the east. The level of the site would be reduced to accommodate the new single garage, and the access to it would cut through a banked verge between the road and the site. The cottage would be sited near the eastern end of the site, and would abut the heath to the north. A number of trees would be removed, including a group of tall bay trees between the cottage and the garage, a silver birch near the boundary with the heath, and two hawthorn trees in the north-eastern corner of the site. While your arboricultural consultant considers that one of those hawthorns could be retained, it would be very close to the rear wall of the cottage, and it seems to me that there is the strong possibility that its future health would be in jeopardy.

8. There is a silver birch tree on the heath; while it leans sharply away from the site, your arboricultural adviser and the Council agree that it could survive for a few further decades. However, the base of the birch's trunk is close to the proposed cottage, and even if care were taken in the design and construction of the foundations for the building, I do not consider that the future wellbeing of that tree would be reasonably assured.

9. The Council is concerned that a large chestnut tree in the front garden of the existing house on the site would be put at risk by the proximity of the proposed double garage and the adjacent steps to the south of that tree. The garage and steps would impinge to some extent on the canopy of the chestnut tree, and the Council believes that the tree roots may extend further than normal to the south to compensate for lack of root space to the north. Nevertheless, it seems to me that the garage could be precisely located, and the foundations designed, to put neither the chestnut tree nor a beech tree along the site's southern boundary at unacceptable risk.

10. While some trees would remain on the site, it is clear that the proposal would result in the substantial opening up of the site. However, the site of the proposed cottage is surrounded by mature trees near the existing house, on the property to the east, and on the heath. Very little of the proposed dwelling would be able to be seen from North End, and the remaining trees would continue to dominate the view of the site from the road, and the proposal would therefore not compromise the aims of UDP policy HR5 of protecting the existing skyline. Further, you have indicated new planting on the site, including some new trees along the North End boundary. In my view they would in time restore the somewhat secluded nature of the site. The proposal would not strictly comply with the guidance in section 4 of the SPG that established vegetation should be regarded as an integral element of site development in respect of the site of the cottage itself. However, given the extent of surrounding vegetation and the proposed new planting, I do not consider that the aims of that guidance would be compromised to a significant extent.

11. I do not consider that the density of the proposed development, or the size of gardens for the existing house or new dwelling would be out of keeping with other developments in this area where there is a wide range in the size of buildings and plots. In that regard the proposal would not be contrary to the aims of UDP policy HR7. Also, it seems to me that the proposed boundary wall to the west and north of the site could be designed to be in keeping with the semi-rural character of the area. The double garage in front of the existing house would be somewhat more prominent than the existing retaining wall, but planting over it would help to soften its impact. The view of the site from North End to the south would alter. The existing double garage on rising land which features prominently in that view would be replaced by walling and fencing which would be considerably lower, by a garage which would be set well back and partly into the existing ground, and by new trees. In my view the semi-rural character of North End would not be altered to an unacceptable extent, and the contribution of North End to the setting of the heath will not be diminished; the proposal would therefore comply with UDP policy HR3.

12. The proposed flat-roofed building would have the appearance of a neo-classical pavilion, and would undoubtedly be different in character from the existing house on the site. However, much of the charm of the area derives from the wide diversity of buildings in it and, even though there are fewer flat than pitched roofs in the area, it seems to me that the building would add to the rich variety of dwellings in the area. I also consider that the angled siting of the building's main elevation and the non-axial approach to it would add a whimsical quality which would not be out of keeping in this diverse area.

13. The proposed side wall of the new dwelling abutting the heath and the upper part of the building would undoubtedly be able to be seen from the heath, particularly in wintertime when many of the trees would not be in leaf. There are, however, other dwellings in the vicinity which are close to or abut the heath, and glimpses of buildings between the trees form part of the heath's character. The elevation facing the heath would be largely devoid of architectural features. However, as a result of the angled siting of the main part of the building and the variety of forms resulting from the chimney and curved stair tower, it would be seen as a sculptural group between the trees. While the building would introduce a more substantial built form than the existing shed in the north-eastern corner of the site, the bulk of the building would not be large, and I do not consider that it would urbanise this part of the heath to an unacceptable extent; in that regard the proposal would be not be contrary to

UDP policy EN72 which seeks to protect public and private open spaces from development bordering them, or to policy HR1 which seeks to preserve and/or enhance the character of the heath and its setting. While the dwelling would abut the heath, I do not consider that the proposal would be contrary to the thrust of policy EN66 in which there is a general presumption against inappropriate development in MOL.

14. You have drawn my attention to other dwellings which have been permitted in the grounds of residential properties in the area, and permission given for a studio on the site in 1965. I am, however, considering this proposal on its own merits. Despite the loss of existing trees and some increased urbanisation, I have come to the view that, on balance, the proposal would not detrimentally alter the character of the area, and in my view it would not fail to comply with the thrust of the policies referred to in paragraph 4 above.

15. I conclude that the proposal would preserve the character of the Hampstead Village Conservation Area, and it would not unacceptably affect the Highgate Ridge Area of Special Character or the adjoining Hampstead Heath.

16. You have agreed to the imposition of the conditions suggested by the Council in the event of planning permission being granted. In view of the location of the site in a conservation area and adjacent to the heath, I consider those relating to elevational drawings, materials, landscaping, means of enclosure, tree protection, water tank details and restriction of further development to be necessary. I also consider that conditions concerning the precise location of the double garage, tree protection, excavation and foundation design to be necessary to safeguard the trees which would be retained. In my view some of the conditions would need to be reworded in the interest of clarity and to more closely conform to the model conditions in Circular 11/95.

17. I have taken into account all of the other matters raised, including the limited recent infilling permitted in the area, the effect of tree loss on wildlife and housing land availability. I have found none of them to be sufficient to outweigh the considerations that have led me to my conclusion.

18. For the above reasons and in exercise of powers transferred to me, I hereby allow these appeals and grant planning permission for the demolition of a single storey double garage, and proposed 2 bedroom cottage with integral garage on the site of the existing garage, a new single storey double garage below the existing garden and a new entrance gate, and conservation area consent for demolition of a double garage, at 19 North End, London NW3, in accordance with the terms of the applications (No PW9802046R2 and CW9802047R2), both dated 19 January 1998 and the revised drawings 10.1/001 rev B, 002 rev B, 003 rev B, 004 rev B, 05 and 06, subject to the following conditions:

Planning Permission

1. the development hereby permitted shall be begun before the expiration of five years from the date of this permission;

2. no development shall take place until detailed elevations to a scale of 1:50 have been submitted to and approved in writing by the local planning authority; the works shall be carried out in accordance with the approved details;
3. no development shall take place until details of the materials to be used in the external elevations of the dwellinghouse and the two garages have been submitted to and approved in writing by the local planning authority; the works shall be carried out in accordance with the approved details;
4. no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include the area of wall along the boundary with Hampstead Heath; other means of enclosure; external steps; all temporary and permanent excavations including those for foundations and service runs;
5. all hard and soft landscaping shall be carried out in accordance with condition 4 above prior to the use of any part of the development hereby permitted or in accordance with a programme to be agreed in writing by the local planning authority; any trees or plants which, within a period of 5 years from the time of planting die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the Council gives written consent to any variation;
6. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development within Part 1 (Classes A-H) and Part 2 (Classes A-C) of Schedule 2 of that Order shall be carried out without the grant of planning permission by the local planning authority;
7. no development shall take place until details of the water tank enclosure on the roof of the building have been submitted to and approved in writing by the local planning authority; the works shall be carried out in accordance with the approved details;
8. the location of the double garage shall be agreed in writing by the local planning authority, and that building shall be erected in the approved position;
9. details of the design of the foundations of the new buildings shall be submitted to and approved in writing by the local planning authority; the works shall be carried out in accordance with the approved details;
10. in this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the occupation of the dwelling for its permitted use;

- (a) no retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work);
- (b) if any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority;
- (c) the erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

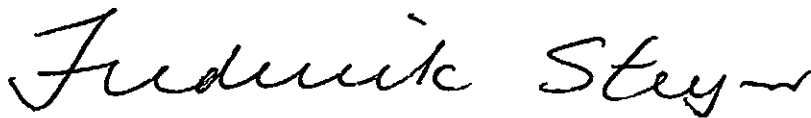
Conservation Area Consent

1. the development hereby permitted shall be begun before the expiration of five years from the date of this consent.

19. These conditions require further matters to be agreed by the local planning authority. There is a right of appeal to the Secretary of State if they refuse any such application, fail to give a decision within the prescribed period, or grant a conditional approval.

20. This letter only grants planning permission under Section 57 of the Town and Country Planning Act 1990 and conservation area consent under Section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It does not give any other approval or consent that may be required.

Yours faithfully



FREDERICK F STEYN BArch RIBA
Inspector