

**APPEAL BY MRS INES DE LA CHAISE**

**AGAINST THE DECISION OF THE LONDON BOROUGH OF CAMDEN**

**Amalgamation of four residential units to a single dwelling and internal and external alterations**

**33 FERNCROFT AVENUE, LONDON, NW3 7PG**



**LPA APPLICATION REF:**

**24/1200/P**

**DATE OF DECISION:**

**7 NOVEMBER 2024**

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## **Appendices**

- SM-1: Delegated officer recommendation for approval
- SM-2: Decision Notice for Listed Building Consent 2024/1816/L
- SM-3: 37 Ferncroft Planning History
- SM-4: Delegated Officer Report for 24/1200/P & 2024/1816/L
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## 1.0 SITE & SURROUNDINGS

- 1.1 The site is located on the south side of Ferncroft Avenue and shares its rear boundary with West Heath Lawn Tennis Club. The site is within Redington Froggnal Conservation Area and the Redington and Froggnal Neighbourhood Plan Area.
- 1.2 The application property is a grade II listed building, which is part of a semi-detached pair (No.'s 33 & 35) built in 1902 to the designs of CHB Quennell. The semi-detached pair form part of a wider group of houses within the conservation area of a similar style, by CHB Quennell and other leading architects of late C19.
- 1.3 The application property is subdivided into four flats and a number of internal and external features of the building in a poor state of repair. No.35 was historically subdivided into five flats but its original use as a single family dwelling was reinstated c.1999.

## 2.0 THE APPLICATION

- 2.1 The application was received by the Local Planning Authority (LPA) and made valid on 9<sup>th</sup> May 2024. The application was assigned reference number 2024/1200/P.
- 2.2 The application formed part of a combined application seeking full planning permission and listed building consent for the amalgamation of four residential units to a single dwelling and internal and external alterations.
- 2.3 Following an initial recommendation for the approval of both applications (see SM-1), the delegated officer's recommendation to grant planning permission was overturned under moderation.
- 2.4 Listed building consent (ref: 2024/1816/L) was granted for the proposed development on 7<sup>th</sup> November 2024 (decision notice attached to SM-2), but planning permission was refused on the same date for the following reason:

*"The proposed development would result in the net loss of three permanent self-contained homes, including a mix of large and small homes and a high priority unit size, and would undermine the Council's aim of securing a sufficient supply of homes to meet the needs of existing and future households, contrary to policy H1 (increasing housing supply) of the London Plan and policies H1 (maximising housing supply), H3 (protecting existing homes), H6 (housing choice and mix) and H7 (large and small homes) of the Camden Local Plan 2017."*

### 3.0 **PLANNING HISTORY**

- 3.1 On the 24<sup>th</sup> of July 1969, planning permission was approved (ref: 7290) for the conversion of dwelling house into five self-contained flats. Construction of dormer window to side elevation and formation of additional window openings in flank wall.
- 3.2 On the 2<sup>nd</sup> of September 1970, planning permission was approved (ref: 9266) for the conversion of a dwelling house into 4 self-contained flats and one self-contained maisonette, the formation of one window opening in the flank wall at ground floor level and the construction of a terrace at the rear of the second floor, the conversion providing eleven habitable rooms.
- 3.3 On the 7<sup>th</sup> of May 1973, planning permission was refused (ref: 16417) for the construction of an open terrace at 1st floor level on the roof of the ground floor bay window at the rear of No. 33.
- 3.4 On the 20<sup>th</sup> of December 1973, planning permission was granted (ref: 17815) for the construction of a partly screened terrace at first floor level on the roof of the ground floor bay window at the rear of 33.
- 3.5 On the 16<sup>th</sup> of June 1981, planning permission was granted (ref: 32335) for the conversion of existing basement into additional habitable room for ground floor flat.
- 3.6 On the 20<sup>th</sup> of June 2005, listed building consent was granted (ref: 2005/1739/L) for the internal alterations involving the demolition of existing walls, formation of new openings and walls in association with the re-configuring of internal layout to existing first floor flat.
- 3.7 On the 11<sup>th</sup> of February 2010, planning permission was granted (ref: 2010/0087/P) for the change of use from two self-contained flats (Class C3) at lower ground and ground floor levels into a single flat including extension at basement level.
- 3.8 On the 11<sup>th</sup> of February 2010, listed building consent was granted (ref: 2010/0092/L) for the internal alterations and works including extension at basement level as part of conversion from two flats at ground and lower ground levels to single flat.
- 3.9 On the 6<sup>th</sup> February 2024, listed building consent was granted (ref: 2023/2898/L) for internal alterations including the reconfiguration of the lower ground, upper ground, first and second floor layout, removal of non-original partitions and staircase, removal of false ceilings, relocation, creation and adjustment to door openings, replacement skirtings, replacement of coffered ceilings with cornices and internal decoration through walls and ceilings.
- 3.10 On the 12<sup>th</sup> February 2024, planning permission and listed building consent was granted (ref: 2023/3741/P and 2023/3904/P) for external alterations including the replacement of existing windows on the side and rear elevations, enlarging existing rear and side dormers at roof level, replacement of balustrades and doors to the rear balconies, removal of projecting pelmet on

the rear elevation, removal of render to rear elevation at lower ground level and reinstatement of brickwork.

- 3.11 On the 7<sup>th</sup> November 2024, listed building consent was granted (ref: 2024/1816/L) for the amalgamation of four residential units to a single dwelling and internal and external alterations.

#### 4.0 **THE PROPOSAL**

- 4.1 The proposed development is for the amalgamation of four residential units to a single dwelling and various internal and external alterations to the property.

- 4.2 The proposed external alterations include the replacement of existing windows on the side and rear elevations, enlarging and alteration of existing rear and side dormers at roof level, replacement of balustrades and doors to the rear balconies, removal of projecting pelmet on the rear elevation, removal of concrete lintels and replacement with brick arches on the rear elevation, removal of render to rear elevation at lower ground level and reinstatement of brickwork.

- 4.3 The proposed internal alterations include the reconfiguration of the lower ground, upper ground, first and second floor layout, removal of non-original partitions and staircase, removal of false ceilings, relocation, creation and adjustment to door openings, replacement skirtings, replacement of coffered ceilings with cornices and internal decoration throughout walls and ceilings.

- 4.4 The proposed internal and external alterations have already been granted planning permission and listed building consent, under refs 2023/2904/P & 2023/3741/L (external, granted 12 February 2024) and 2023/2898/L (internal, granted 6 February 2024). However, in the absence of a permission for the change of use of 33 Ferncroft Avenue to a single-family dwelling, the extant planning permissions and listed building consents could not be practically implemented, as it is inherent in these proposals that the property would cease to be subdivided into four separate residential units, and instead would become a single-family dwelling.

- 4.5 For the avoidance of doubt, no further internal or external alterations are proposed other than those approved under the above applications.

- 4.6 For full details of the proposed development please refer to the Design & Access Statement, Heritage Statement and the plan drawings submitted under the application.

## 5.0 PLANNING LEGISLATION

### **Planning and Compulsory Purchase Act 2004**

- 5.1 Section 38(6) sets out that applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise.

### **Planning (Listed Buildings and Conservation Areas) Act 1990**

- 5.2 Section 66 (1) states in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or of any features of special architectural or historic interest which it possesses.
- 5.3 Section 72 (1) confirms that with respect to any buildings or other land in a conservation area, the local planning authority shall pay special attention to the desirability of preserving or enhancing the character and appearance of that area.

## 6.0 PLANNING POLICY & GUIDANCE

### **The National Planning Policy Framework (2023) (NPPF)**

- 6.1 This document sets out the Government's planning policies for England and how these are expected to be applied. It is a material consideration in formulating local planning policies and taking decisions on planning applications.
- 6.2 Paragraph 8 introduces three objectives to 'sustainable development' (economic, social and environmental), advising that they are interdependent and need to be pursued in mutually supportive ways.
- 6.3 Paragraph 10 confirms that a presumption in favour of sustainable development lies at the heart of the NPPF. Paragraph 11 sets out a presumption in favour of sustainable development and how this should be applied.
- 6.4 The following chapters of the NPPF are considered most relevant to the assessment of this appeal:
- Chapter 10 (delivering a sufficient supply of homes)
  - Chapter 16 (conserving and enhancing the historic environment)
- 6.5 Paragraph 214 confirms that local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies, but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

### **The Development Plan**

- 6.6 For the purpose of this site, the development plan comprises the London Plan (2021), the Camden Local Plan (2017) and the Redington and Frognal Neighbourhood Plan (2021). The development plan policies considered most relevant to this appeal are listed below.

#### ***London Plan (2021)***

- Policy H1 (increasing housing supply)
- Policy D6 (housing quality and standards)
- Policy HC1 (heritage conservation and growth)

#### ***Camden Local Plan (2017) ('CLP')***

- Policy H1 (maximising housing supply)
- Policy H3 (protecting existing homes)
- Policy H6 (housing choice and mix)
- Policy H7 (large and small homes)

#### ***Redington and Frognal Neighbourhood Plan (2021)***

- Policy SD1 (refurbishment of existing building stock)
- Policy SD2 (Redington Frognal conservation area)
- Policy SD6 (retention of architectural details in existing buildings)

#### **London Plan Guidance & Camden Planning Guidance (LPG's/CPG's)**

- 6.7 Camden and the Mayor of London have produced a number of Supplementary Planning Documents and Guidance which provide further information on the application of the development plan policies. Those considered most relevant to the assessment of this appeal are as follows:

- Mayor of London's Housing Design Standards LPG (2023)
- Mayor of London's Housing SPG (2016)
- Housing CPG (2021)
- Design CPG (2021)

## 7.0 MAIN DETERMINING ISSUES

7.1 From a review of the council's decision notice and delegated report, it is considered that the main determining issue for this appeal is:

- Whether the net loss of the three existing residential units would be outweighed by the heritage benefits of the proposal

## 8.0 THE APPELLANT'S CASE

8.1 Law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

### *Heritage Benefits*

8.2 The Appellant's Heritage Statement by Cogent Heritage confirms that there is a clear and compelling heritage imperative to grant consent for the proposed reversion of the property back to a single-family dwelling.

8.3 The site is located within the Redington Froggnal Conservation Area and comprises a Grade II listed building, which is part of a semi-detached pair (No.'s 33 & 35) built in 1902 to the designs of CHB Quennell. The semi-detached pair form part of a wider group of houses within the conservation area of a similar style, by CHB Quennell and other leading architects of late C19.

8.4 The pair at 33 & 35 Ferncroft Avenue were listed on 11 January 1999, which is the same day that many other houses in the Hampstead area were listed. The list entry description states:

*"Pair of semi-detached houses. 1902. By CHB Quennell; built by GW Hart. Red brick. Tiled gabled and hipped roofs with tile-hung gabled dormers and overhanging bracketed eaves. Symmetrically designed pair. 2 storeys and attics. 3 windows each. Projecting gabled outer bays with further projecting bays forming bay windows through the ground and 1st floor with hipped half roofs; tripartite sashes and narrow sashes to cheeks; gables with acroteria. Entrance bays, slightly projecting on angle of outer and central bays, have round-arched porches with sash windows above. Central bays at ground floor continue line of entrance bays with tripartite sashes under penthouse roofs having a stone coped parapet at the line of the party wall. 1st floor corresponding tripartite sashes with the party wall roof parapet continuing onto the wall as a stepped corbel. INTERIORS: not inspected."*

8.5 The significance of the pair at 33 & 35 Ferncroft Avenue is attributable to its architectural and historic interest. It encompasses illustrative, associative, evidential, aesthetic and group value as a relatively well-preserved pair of early C19 houses in Quennell's deft handling of a traditional style. It makes a valuable contribution to the wider group of houses in a similar style and encompasses strong symmetry.



- 8.6 However, No.33 has been subject of considerable number of poor-quality and unsympathetic modifications and later additions, both internally and externally. Many of which were presumably in connection with the subdivision of the property into separate flats prior to its listing in 1999.
- 8.7 The interior has been subject to relatively comprehensive remodelling, including obvious changes to the plan form in principal rooms on principal levels, and the removal or modification of most historic features. There are modern ceilings with spotlights throughout and a wholly inappropriate projecting cornice. The chimney breast was overlapped by a partition and the principal ground floor room was subdivided and cut through for the insertion of a small, convoluted staircase.
- 8.8 In terms of the exterior, later additions and a loss of symmetry to the original pair of houses is particularly notable to the rear, where 33 & 35 Ferncroft Avenue have seen some unfortunate modifications. This includes mismatching dormers to the pair and the loss of the original chimney stacks to the rear projecting wings. Additionally, and specific to No.33, a retractable awning, crude and unsightly timber balustrading, addition of a secondary dormer, modifications to original openings and unsympathetic window replacements have further harmed the significance of the listed building.



Figure 1 – Examples of unsympathetic additions

- 8.9 Another inevitable consequence of the subdivision is the external manifestations of the creation of multiple units. At the entrance, the mailboxes for each flat and intercom further detract from the quality and character of the building.
- 8.10 Overall, it is evident that the historic subdivision has led to the fragmentation of the originally interconnected and spatially integrated dwelling into a series of separate compartments. This has also impacted the legibility of the floor plan, hierarchy and spatial arrangement of the

house. The unfortunate modifications and later additions to the property, many of which were carried out in connection with the subdivision of the property, have evidently been harmful to the legibility, character, quality and fabric of the listed building. For further details, please refer to the Heritage Statement.

- 8.11 It is also noteworthy that historically, the LPA have recognised the harm that the subdivision of housing along Ferncroft Avenue was causing to the character of the conservation area which was originally comprised of large single-family dwellings and also to highway safety as a result of increased pressure for on street car parking. On 15<sup>th</sup> March 1989, planning permission was refused for the change of use and works of conversion to form 5 self-contained flats (which sought to renew a previous planning permission dated 28<sup>th</sup> December 1983) at 37 Ferncroft Avenue on the grounds of over-subdivision and increased pressure on street car parking which would cause harm to the significance of the conservation area (ref: PL/8804474). This decision notice is attached to SM-3.
- 8.12 Additionally, it should be noted that No.35 is in use as a single-family dwelling as per the intended use of the pair of semi-detached properties. On 25<sup>th</sup> October 1999 planning permission was granted for the change of use from 5 flats to 1 single family dwelling including erection of conservatory and other internal and external alterations at 35 Ferncroft Avenue (the adjoining dwelling) (ref: PW9902295).
- 8.13 The Heritage Statement confirms that the proposed internal and external alterations would represent considerable enhancements to the significance of the listed building and its contribution to the Redington Froggnal Conservation Area. It highlights that the amalgamation of the existing units to create a single-family dwelling is the only mechanism to secure these physical enhancements and material benefits, given the majority are inherent to the use of the property as a single house. For the full list of proposals and the heritage impact assessment, please see Section 3 of the Heritage Statement.
- 8.14 The Heritage Statement also confirms that the change of use to a single-family dwelling would reinstate the originally intended use of the house, thereby better revealing its design intent. This would materially enhance the ability to appreciate the buildings significance.
- 8.15 The proposed change of use would therefore be an enhancement in its own right, as well as securing the physical enhancements have already been granted planning permission and listed building consent under refs 2023/2904/P & 2023/3741/L (external, granted 12 February 2024) and 2023/2898/L (internal, granted 6 February 2024). In the absence of a permission for the change of use of 33 Ferncroft Avenue to a single-family dwelling, the extant planning permission and listed building consents could not be practically implemented, as the works are inherently linked to the appellant's intention to revert back to the original use of the property as a single-family dwelling. In particular, the amalgamation is necessary in order carry out the works to reinstate the significantly damaged plan form and original stair core.

- 8.16 The works also include the removal of the substandard spiral staircase (currently in the maisonette). The staircase does not comply with current building regulations and is dangerous and precarious, detracting from the historical and architectural merit of the building. The removal of the staircase, and the reinstatement of the original stair core is a significant benefit to the listed value of the building.



Figure 2 – Substandard spiral staircase

- 8.17 The reversion of the listed building to a single-family dwelling and associated internal and external alterations would enhance the significance of the listed building and put it into a viable use more consistent with its conservation, in line with paragraph 203 of the NPPF. Vacancy and neglect have left a number of internal and external elements of the building in a poor state of repair (see Deign and Access Statement and the Heritage Statement). The reversion of the property to a single-family dwelling would ensure the longer-term maintenance of the listed building and reduce the risk of further neglect.
- 8.18 The proposed development would therefore considerable enhance special architectural and historic interest of the Grade II listed building and there would be an associated enhancement to the significance of Redington Frognal Conservation Area.
- 8.19 For the avoidance of ant doubt, the council recognise the harmful alterations associated with the conversion of the property into four flats and the heritage benefits of the proposal (see delegated report attached to SM-4). The Conservation Officer supported the proposal and recommended it for approval on this basis (see SM-5).

### ***Loss of Housing***

- 8.20 CLP Policy H3 resists development that would involve the net loss of more than one home through individual or cumulative proposals unless specific circumstances apply, including where they, *“enable sub-standard units to be enlarged to meet residential space standards.”*
- 8.21 The supporting text confirms that the council may permit proposals where the existing dwellings are 20% or more below the residential space standards within the Nationally Described Space Standard, provided the loss is no greater than needed to meet the standard. This parameter is reiterated within the Housing CPG.
- 8.22 In this connection, Section 5.3 of the Design & Access Statement confirms that the streetside basement/ground floor maisonette does not meet the Nationally Described Space Standard with regard to internal floor area, built-in storage, and minimum ceiling height. The minimum GIA for this one-bedroom two-storey property is 58m<sup>2</sup>. At 44.6m<sup>2</sup>, the GIA falls more than 20% below the Nationally Described Space Standard (NDSS) and London Plan internal space standard.
- 8.23 The council do not accept that the 1-bedroom unit is sufficiently substandard to justify its loss on the basis that it could be occupied by one person rather than two and on this basis is only 5% below the GIA space standards (see paragraph 2.5 of the delegated report attached to SM-4).
- 8.24 In this connection, it should be noted that the two-storey unit has 1 bedroom and 2 bedspaces. The NDSS confirms that a dwelling with 2 or more bedspaces has at least one double bedroom and to provide 2 bedspaces, will have a floor area of at least 11.5sqm and is at least 2.55m in width. The floor area of the bedroom is 15.17sqm and it is 4.1m in width. It is therefore a two storey, 1b 2p unit where it is argued that the NDSS of 58sqm should be applied. The unit is therefore more than 20% below the space standard.
- 8.25 Additionally, the Nationally Described Space Standard sets out the minimum floor to ceiling height as 2.3m for at least 75% of the GIA. This is also reiterated within the Mayor of London’s Housing SPG and Housing Design LPG. It is therefore of significance to note that the street side basement/ground floor maisonette only achieves 2.3m floor to ceiling height throughout 36.5% of the GIA and therefore falls significantly below the minimum standard.
- 8.26 Notwithstanding the above, the council do not consider that ceiling heights should be taken into account when determining whether the unit is substandard. The council state that while 2.3m ceiling height across 75% of the unit is the council’s starting point when assessing new homes, in this case the situation is an existing one and provides suitable living accommodation and that the shortfall is very minor.
- 8.27 In this connection, ceiling heights form part of the NDSS and Mayor of London’s Guidance and is therefore a material consideration in determining whether a unit is substandard for the

purpose of CLP Policy H3. The identified shortfall is considered significant and from a site visit it is evident that the unit does not provide an acceptable standard of living. It is noted that the officers did not conduct a site visit as part of the application.

- 8.28 Given the above, it is argued that the amalgamation of the substandard street side basement/ground floor maisonette should be supported. It is appreciated that the council will only support the amalgamation of substandard units where the loss is no greater than needed to meet the standard, and thus the loss of the additional x2 units would conflict with CLP Policy H3.
- 8.29 It is also of significance to note that the street side basement/ground floor maisonette would remain vacant in the event that the appeal is dismissed, given the spiral staircase does not comply with Building Regulations or Health & Safety Regulations and thus the unit cannot be occupied/rented out.
- 8.30 CLP Policy H7 also confirms the council will aim to secure a range of homes of different sizes that will contribute to the creation of mixed, inclusive and sustainable communities and reduce mismatches between housing needs and existing supply. All housing development should contribute to meeting the council's dwelling size priorities. The council's dwelling size priorities are 2 and 3-bed units.
- 8.31 In this connection, the proposal would result in the loss of 1x5 bed unit, 2x1 bed units (one of which is substandard), and 1x3 bed units to create a 5-bed family home. It is therefore appreciated that the proposal would conflict with CLP Policy H7 given the proposed development would not align with the council's housing mix/dwelling size priorities.

### ***Planning Balance***

- 8.32 Law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.33 Paragraph 214 of the NPPF confirms that local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies, but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.
- 8.34 It has been demonstrated that there is a clear and compelling heritage imperative to grant consent for the proposed reversion of the listed building to a single-family dwelling.
- 8.35 The amalgamation of the existing units to create a single-family dwelling is the only mechanism to secure the proposed physical enhancements and material benefits, given the majority are inherent to the use of the property as a single house.

- 8.36 The change of use to a single-family dwelling would reinstate the originally intended use of the house, thereby better revealing its design intent. This would materially enhance the ability to appreciate the buildings significance.
- 8.37 The reversion of the listed building to a single-family dwelling and associated internal and external alterations would enhance the significance of the listed building and put it into a viable use more consistent with its conservation, in line with paragraph 203 of the NPPF. Vacancy and neglect have left a number of internal and external elements of the building in a poor state of repair. The reversion of the property to a single-family dwelling would ensure the longer-term maintenance of the listed building and reduce the risk of further neglect.
- 8.38 In accordance with paragraph 205 of the NPPF, great weight should be given to the asset's conservation. The proposal would enhance and better reveal the significance of the listed building and conservation area. Paragraph 212 of the NPPF confirms that such developments should be treated favourably.
- 8.39 It is considered that the heritage benefits of the proposal would therefore considerably outweigh the conflict with the development plan policies which seek to protect existing houses.
- 8.40 It is also argued that reduced weight should be afforded to the conflict with the development plan policies which seek to protect existing housing given that the existing one-bedroom streetside basement/ground floor maisonette is substandard and provides a poor standard of living accommodation.
- 8.41 It is also argued loss of the existing x3 units which would have a negligible impact upon local housing stock in this exceptional case.
- 8.42 It is therefore concluded that the proposal is acceptable on balance. It is noteworthy that the original case officer came to the same conclusion and recommended the application for approval (see SM-1) which was subsequently overturned under moderation.

## 9.0 **CONCLUSION**

- 9.1 There is a clear and compelling heritage imperative to grant consent for the proposed reversion of the listed building to a single-family dwelling. It is argued that the existing one-bedroom streetside basement/ground floor maisonette is substandard and provides a poor standard of living accommodation. Taking into account the circumstances of this case, it argued that the loss of the three existing residential units would be greatly outweighed by the heritage benefits of the proposal.

9.2 For these reasons, the proposed development is considered acceptable on balance and as such, the Inspector is respectfully requested to allow the appeal.