

Delegated Report Members Briefing		Analysis sheet N/A	Expiry Date: 07/06/2010
			Consultation Expiry Date: 02/06/2010
Officer John Sheehy		Application Number 2010/2071/P	
Application Address 102 Frognal Hampstead London NW3 6XU		Drawing Numbers Refer to draft decision	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature
Proposal			
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.			
Recommendation:	Grant permission subject to conditions and a S106 Legal Agreement		
Application Type:	Renewal of Full Planning Permission		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	24	No. of responses	25	No. of objections	25
Summary of consultation responses:	<p>No. electronic 0</p> <p>Site notice displayed from 10th of May to 31st of May.</p> <p>Objections received from occupiers of the following properties: 93, 93b, 93c, 94, 99, 100 (x4), 100b, 100d (x2) Frogнал; 1a, 4, 4 (2nd and 3rd floor maisonette), 5, 12 (flat 3), 14a, 18, 18b, 20(x2) Frogнал Gardens; 17 Redington Road; 28 Willoughby Road; 57 Kirkstall Road, Streatham Hill, SW2 4HE.</p> <p>In summary, the following points were raised:</p> <ul style="list-style-type: none"> • Proposal is out of character with Conservation Area in terms of appearance and loss of green space which should be protected; • Detrimental impact on nearby listed buildings; • Standard of design not high – “pseudo period design”; • Impact on Frogнал which “attracts tourists from countless countries and gives pleasure to all”; • Precedent for other similar proposals elsewhere in Frogнал; • Previous decision was flawed; • Proposal would result in a shortage of on-street parking spaces in the surrounding area; • Conservatives, Liberal Democrats and Mayor of London have a policy against “garden grabbing”; • Disruption to neighbours as a result of construction; • Disruption to road conditions as a result of construction; • If permission is granted, it should be accompanied by a Construction Management Plan; • Overdevelopment is “running riot” in the area; • Nearby residents would be “prisoners in their own homes” during the period of construction; • Is there any way in which the applicants can be prevented or dissuaded from making any further proposals?; • Loss of light and amenity of nearby occupants. <p>English Heritage: “We do not wish to offer any comments on this application”.</p> <p>Councillor Martin Davies “I trust that this level of objections demonstrates the strength of local feeling about this application. As you know there have been previous applications on the same site, which have also been vigorously opposed by neighbours and which the Council has refused. I hope that this application can be refused on similar grounds.”</p> <p>Glenda Jackson MP wrote to request that she is copied in to the response to her constituent’s objection letter (constituent address: 93b Frogнал).</p>					
CAAC/Local groups comments:	<p>Heath & Hampstead Society. In summary, the following points were raised:</p> <p>“The unmistakable impression is given that re-examination of the original proposals is unnecessary, and that renewal is a rubber-stamp exercise... it is clear that it is intended that renewal applications have been designed to allow a second or further look at permissions”</p>					

Proposal is out of character with Conservation Area in terms of appearance and would have a detrimental impact on nearby listed buildings. The design should be re-assessed or else refused.

Site Description

The site is located on the eastern side of Frognal and comprises an existing double garage with a conservatory extension at first floor level attached to no 102 Frognal, a c1880s detached house of two storeys, with a further attic storey in a substantial tile hung gable. The site is situated within the Hampstead Conservation Area. Number 100 to the south of the application site adjoining Frognal Way, and no. 102 are identified as making a positive contribution to the character and appearance of the CA. Number 102 Frognal is not listed but it adjoins nos.104 & 106, which are listed.

Relevant History

April 1973 Planning permission for 2 storey house and integral garages on land adjoining 102 Frognal, ref. CTP/E6/12/B/15062/R2 (not implemented).

September 2005 Planning permission granted for demolition of existing garage and conservatory and erection of new 2-storey dwellinghouse with garage, ref. 2005/1284/P.

August 2006 Planning permission refused for demolition of existing conservatory and garage and the construction of a new 3-storey dwellinghouse with integral garage and forecourt parking, ref. 2006/1685/P. Reason for refusal: *The proposed new house, by reason of a combination of its excessive height, overbearing mass, unsympathetic form and detailed design, would be detrimental to the setting of the adjoining buildings that positively contribute to the character of the conservation area, to the quality of the townscape gap between these 2 buildings, and to the character and appearance of this part of the Hampstead conservation area, contrary to policies S1,2,7 (strategic policies), B1 (design principles), B7 (conservation areas), B9 (local views) of the London Borough of Camden Replacement Unitary Development Plan 2006, and advice contained in the Hampstead Conservation Area Statement.*

April 2007 Planning permission 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, ref. 2006/5581/P.

July 2007 Planning 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, ref. 2007/2470/P. Reason for refusal: *The proposed new house, by reason of a combination of its overbearing mass and front building line, unsympathetic form and detailed design, would be detrimental to the setting of the adjoining buildings that positively contribute to the character of the conservation area, to the quality of the townscape gap between these 2 buildings, and to the character and appearance of this part of the Hampstead conservation area, contrary to policies S1,2,7 (strategic policies), B1 (design principles), B7 (conservation areas), B9 (local views) of the London Borough of Camden Replacement Unitary Development Plan 2006, and advice contained in the Hampstead Conservation Area Statement.*

June 2008 Appeal against refusal of application ref. 2007/2470/P dismissed.

Relevant policies

Replacement Unitary Development Plan 2006

SD6 Amenity for occupiers and neighbours

SD9 Resources and energy

H1 New housing

H7 Lifetime homes

B1 General design principles

B3 Alterations and extensions

B7 Conservation areas

N8 Trees

T1 Sustainable Transport

T3 Cycling facilities

T7 Offstreet parking
T8 Car free housing and car capped housing
T9 Impact of Parking

Hampstead Conservation Area Statement

LDF Core Strategy and Development Policies

As the draft LDF Core Strategy and Development Policies documents have now been published, they are material planning considerations. However, as a matter of law, limited weight should be attached to them at this stage.

CS11 Promoting sustainable and efficient travel
CS14 Promoting high quality places and conserving our heritage
CS15 Protecting and improving our parks and open spaces and encouraging biodiversity

DP17 Walking, cycling and public transport
DP18 Parking standards and the availability of car parking
DP19 Managing the impact of parking
DP21 Development connecting to the highway network
DP24 Securing High Quality Design
DP25 Conserving Camden's Heritage
DP26 Managing the impact of development on occupiers and neighbours

Assessment

Permission was granted in 2005 to demolish the existing garage and conservatory and to erect a new 2-storey dwellinghouse with garage. The permission is due to expire on 09/09/2010: this application seeks to renew this permission.

Government Guidance on "Renewal" Applications

The Department for Communities and Local Government circular "Greater flexibility for planning permissions" dated October 2009 provides guidance to Local Authorities on how to deal with applications to extend the time limit for implementing planning permissions. The following sections of the guidance clearly indicate the approach that Local Authorities are to take:

"Except in cases where there is a need to comply with a statutory requirement in connection with the submission of the application, or a relevant change in policy or other material considerations which post-date the original application, we do not anticipate that any information additional to that which must be provided on the application form will be required in most circumstances." (section 13);

and

"The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date. While these applications should, of course, be determined in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004, LPAs should, in making their decisions, focus their attention on development plan policies and other material considerations (including national policies on matters such as climate change) which may have changed significantly since the original grant of permission." (section 23).

It is clear from this guidance that applications for renewal of a planning permission the Local Authority should be assessed in terms of changes to material circumstances (e.g. new policies or subsequent development). Because an application *"will... have been judged to be acceptable in principle at an earlier date"* an application for renewal of the permission is not to be fully re-assessed in planning terms in the same way that a new application would be.

Design and Amenity

In the time since the original application was determined the Council's design and amenity policies and guidance have been updated with the adoption in 2006 of the Replacement Unitary Development Plan and Camden Planning Guidance. The Council's design and amenity policies and guidance therefore differ from those under which the original application was assessed. However, there is no material change in how the design policies are interpreted since the original permission was granted, with the fundamental test remaining that development should either preserve or enhance the

character and appearance of the conservation area. The Hampstead Conservation Area Statement was published in 2002 and has not been altered or updated since then. In addition, there have been no material changes in circumstances in the surrounding area since 2005. It remains the case that the proposed dwelling is not considered to be detrimental to the character of the conservation and the proposal is considered to be acceptable in terms of design and amenity.

Transport

Off-street parking: The proposal involves the demolition of the existing double garage and its replacement with a double garage plus the provision of one further off-street parking space (as existing) on the forecourt in front of the property. The off-street parking provision matches the existing and no issues are raised with the number of spaces provided in the context of policy T3.

Car-free and Car-capped Development: The Council seeks to secure car-free development throughout the borough, in particular in areas of high public transport accessibility and in areas of existing parking stress. Hampstead (CA-H(d)) Controlled Parking Zones CPZ operates Mon-Sat 09:00-22:00, and 122 parking permits have been issued for every 100 estimated parking bays within the zone: this CPZ is therefore highly stressed.

Under the previously refused applications, in all 3 cases, the officer's report makes it clear that if the application was to be recommended for approval, permission would be subject to the completion of a legal agreement requiring the new residential unit to be car-capped in order to prevent visitor and additional parking overspilling into the highway. This was, however, not a reason for refusal in any of these decisions.

The refusal dating from July 2007 relates to a scheme similar to that which the current application seeks to renew in that a new self-contained housing unit was proposed. In May 2008 the Inspector dismissed the appeal against refusal of this application on Conservation and Design grounds. He addressed the issue of car-capping as follows in his report: *“Although not included in the reasons for refusal, a number of residents were concerned about the potential for the proposal to add to the demand for on-street parking. This was mentioned in the Council’s delegated report which advised that if the scheme was to be approved then the proposal would be required to be ‘car-capped’ through a legal undertaking preventing the residents from applying for an on-street parking permit. For this reason, the appellants have also submitted a legal undertaking which would effectively ‘car-cap’ the residents of the proposed dwelling. However, having regard to the provision of a garage and forecourt parking as part of the proposal, the Council’s maximum parking requirements for a proposed dwelling would be met. Hence, I do not consider that a car-capping restriction would be necessary”.*

The scheme which the Inspector considered was, in terms of its transport implications, similar to the current application in that 1 new self-contained housing unit was proposed. It is clear from the Inspector's report that he considered the issue and was satisfied that a car-free requirement was not necessary. It is not considered to be reasonable or justifiable for the Council to disregard the Inspector's clearly-stated view on this issue.

Construction Management Plan (CMP): The proposal involves the demolition of an existing garage and the construction of a two storey dwellinghouse therefore there will be a large number of construction vehicles needing access to the site during construction. The carriageway is only 4.2m wide making it difficult for vehicles to pass stopped construction vehicles and the footway is also very narrow (1.3m in places), therefore additional provision may need to be made for pedestrians. For all of these reasons a CMP is secured via S106 to ensure the impact of construction is minimised on Frogna and on local residents.

Other issues

Neighbours and local groups have raised a number of concerns about the impact of the proposal on neighbouring occupiers. Matters relating to noise and disruption caused by building works and structural implications of development are covered by separate building control and environmental health and other legislation. As a result, these issues can be given very little weight by local authorities and by the Planning Inspectorate when making planning decisions. While the

concerns raised by neighbouring occupiers and local groups in relation to noise, disturbance and structural matters have been taken into consideration by officers in the assessment of this application, it is not considered to be reasonable to refuse the application or to attach conditions to the permission on the basis of any of the specific concerns raised.

A number of objectors have expressed concerns that the development would partially occupy a garden space (describing the proposal as "garden grabbing") and quoted government support for efforts to protect garden space. A recent government announcement stated that gardens are no longer to be classified as "brownfield land" and that minimum density targets are to be scrapped (Department of Communities and Local Government letter dated 15-06-10). Prior to this announcement, unlike some Councils, Camden already had many planning controls in place to limit the extent of housing development in gardens (policies on design, Conservation Areas and open spaces). The implications of recent government announcements are therefore considered to be limited for Camden and are not considered to constitute a material change in circumstances or policy since the original permission was granted.

The conditions relating to design and trees which were attached to the previous permission have been re-attached to this renewed permission.

Recommendation: grant subject to a S106 securing a Construction Management Plan.

DISCLAIMER

Decision route to be decided by nominated members on Monday 28th June 2010. For further information see

<http://www.camden.gov.uk/ccm/navigation/environment/planning-and-built-environment/planning-applications/development-control-members-briefing/>