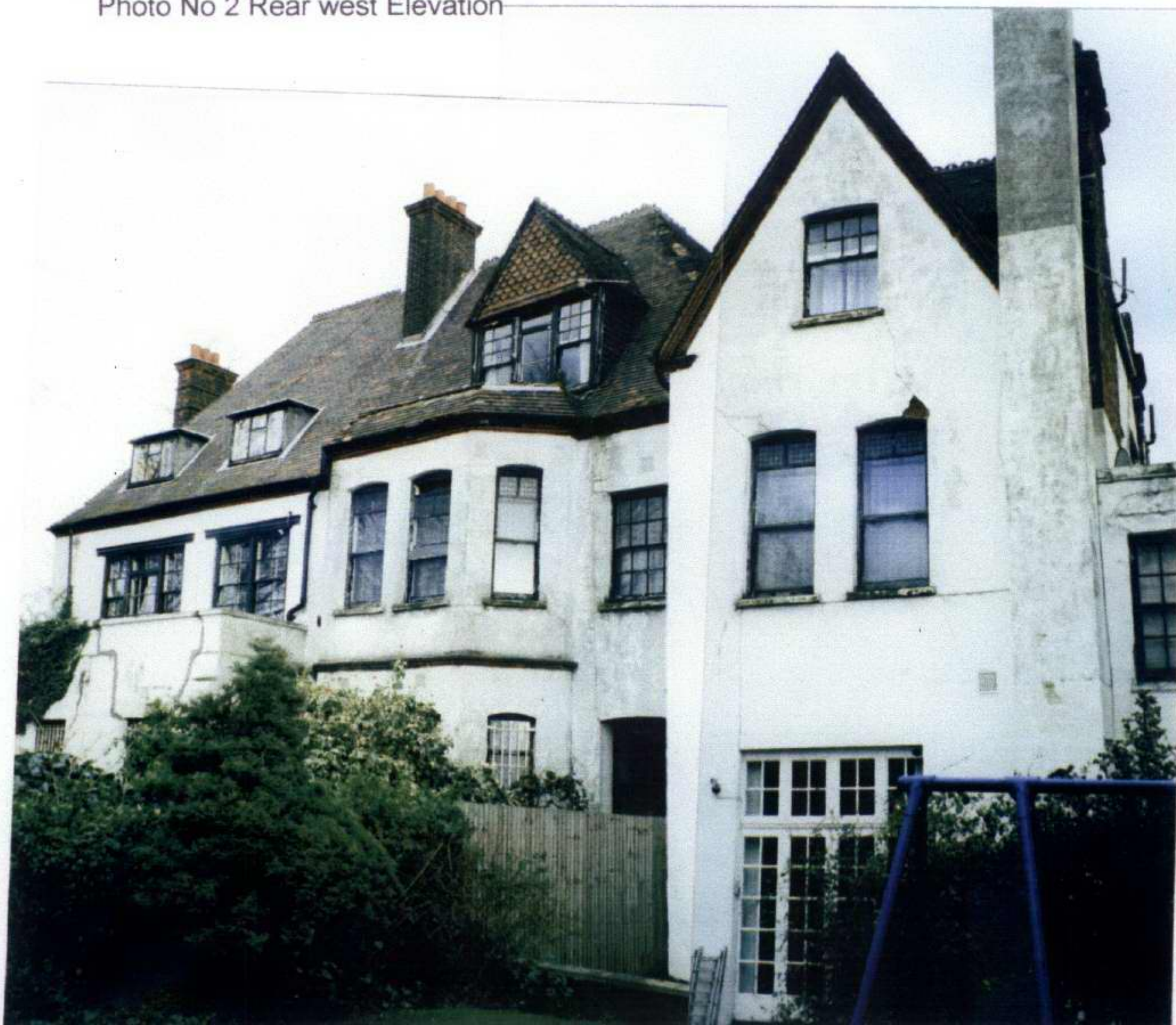


APPENDIX A

Photo No1 (taken during the winter months, building hardly visible during summer months) Front East Elevation



Photo No 2 Rear west Elevation



APPENDIX B



The Planning Inspectorate

3/25 Hawk Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

<http://www.planning-inspectorate.gov.uk>

Direct Line 0117-3728653
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Fax No 0117-3728624
GTN 1371-8653

Mr D Blayney
Michael Scott Associates
Sheraton House
Castle Park
Cambridge
CB3 0AX

Your Ref:

Our Ref: APP/X5210/A/02/1089428

Date: 14 October 2002

Dear Sir

**TOWN & COUNTRY PLANNING ACT 1990
APPEAL BY DR H HABERFIELD
SITE AT 13 NETHERHALL GARDENS, LONDON NW3**

I enclose a copy of our Inspector's decision on the above appeal.

The attached leaflet explains the right of appeal to the High Court against the decision and how the documents can be inspected.

If you have any queries relating to the decision please send them to:

Quality Assurance Unit
The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6PN

Phone No. 0117 372 8252

Fax No. 0117 372 8139

E-mail: Complaints@pins.gsi.gov.uk

Yours faithfully

Mrs Gill Briggs

COVERDL1



Appeal Decision

Site visit made on 30 September 2002

by W. G. Pryce MSc DipArch RIBA MRTPI

an Inspector appointed by the First Secretary of State

1st Planning Inspectorate
09 Kite Wing
Ample Quay House
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spectorate.gsi.gov.uk

date 14 OCT 2002

Appeal Ref: APP/X5210/A/02/1089428

13 Netherhall Gardens, London NW3.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Dr H Haberfield against the decision of the London Borough of Camden Council.
- The application ref: PWX0103596, dated 29 June 2001, was refused by notice dated 27 November 2001.
- The development proposed is for the erection of a detached dwelling house.

Summary of Decision: The appeal is dismissed.

Main Issue

1. The appeal site is located within the Fitzjohn/Netherhall Conservation Area. Having regard to this and from the written representations and my inspection of the site and the surrounding area, I consider the main issue in this case is the effect of the proposed development on the character and appearance of the conservation area.

Development Plan and other Planning Policies

2. The development plan for the locality comprises the London Borough of Camden Unitary Development Plan 2000 (UDP). Particularly relevant to this case, policies EN1, EN13 and EN14 are general policies that seek to ensure new development protects or improves the physical environment, that it is of a high standard of design and that it is compatible with its surroundings in relation to its scale, general proportions and character. Policy EN16 of the UDP deals with site constraints, setting out the factors that should be taken into account in determining the layout of new development. These factors include a need for new proposals to respect the presence of existing trees, shrubs and other vegetation.
3. With particular regard to infill development, policy EN18 emphasises the importance that is attached to existing features including existing building lines, building heights, plot widths and other architectural features such as roof lines, elevational detailing and the materials to be used. Whilst these policies are applicable generally, policy EN31 specifically concerns new development in conservation areas. This policy draws attention to the importance of these historic areas requiring all new proposals to reflect the special characteristics of each of the areas and to preserve or enhance the character and appearance of the area.
4. In considering this appeal, I shall also have regard to the helpful and comprehensive guidance contained within the Council's Conservation Area Statement for the

Fitzjohn/Netherhall area as well as the draft consultation supplementary planning guidance dealing with protection of trees and the landscape.

5. These local development plan policies generally accord with the national advice contained within Planning Policy Guidance Note 15 – Planning and the Historic Environment (PPG15), PPG1 – General Policy and Principles and PPG3 – Housing. I am also cognisant of the duty imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990. Under section 72 (1) of the Act, when considering whether to grant planning permission the decision-maker is required to have special regard to the desirability of preserving or enhancing the conservation area.

Reasons

6. The Fitzjohn/Netherhall Conservation Area is situated to the south-west of Hampstead village. It comprises a largely Victorian suburb with substantial detached and semi-detached houses set within relatively large plots. The streets are tree-lined with well-landscaped and mature gardens that contribute significantly to the high quality of the environment in the locality. Netherhall Gardens itself is an attractive, generally quiet residential road on the west side of the conservation area and close to Finchley Road. Whilst the overall character and appearance of the road has retained much of the grandeur of its original Victorian layout and design, there have been a number of infill developments over more recent years, including a five-storey block of flats on the north side of No.13.
7. The appeal site is on the south side of No.13 and within the curtilage of that property. The site is currently used for car parking and has a small block of garages along its southern boundary adjacent to No. 11 Netherhall Gardens. The demolition of this block of garages has been the subject of an application for conservation area consent that was granted by the Council on 27 November 2001 (Ref. CWX0103597). The main building is a particularly large and extremely attractive three-storey residential building now converted into flats. The building has many interesting architectural features including projecting Dutch style gables, brick string courses, projecting bays at ground floor level and a central recessed entrance porch capped with a balcony. The building has high ceilings and an impressive scale. To the side of the building there is a ground floor extension that appears to be a later addition. There are several mature trees and bushes lining the road and to the rear of the plot.
8. As the design of No.11 is two-storey with rooms in the roofspace it is generally lower than No.13 as well as being less flamboyant than its neighbour. Nevertheless, it is a large and substantial building that is now converted into flats and generally reflects the scale and proportions of the surrounding buildings. Whilst there is a significant amount of planting at the front of the building and along the boundary with No.13, I am conscious of the fact that my inspection of the site was carried out when the trees and bushes were in full leaf and as a result the site itself was relatively well screened. I am however extremely concerned that during the winter months views into the site from the road would be much more open, enabling the proposed dwelling to be seen in relation to the neighbouring property much more clearly. In this context I consider that the much smaller scale, bulk and height of the new dwelling would make the proposed development appear unduly cramped on the site and out of character with the street scene.

9. I recognise that this site has been the subject of earlier planning permissions for a new dwelling, the last of which was granted in 1993 and lapsed in 1998. Therefore, in dealing with this appeal I have considered this matter very carefully. However, whilst I have noted that the first decision was made in 1988, some four years after the designation of the conservation area, a considerable amount of time has since elapsed during which there has been a substantially increased interest and awareness of the importance of the historic environment generally.
10. With regard to this, PPG15 was published in 1994. This national advice changed fundamentally the approach to conservation and it is this advice that has principally framed the policies that were subsequently incorporated in the adopted UDP and which are now at the centre of this appeal. In addition to this, English Heritage also provided further advice on these matters. Central to the current approach to conservation, paragraphs 4.9 and 4.10 of PPG15 refer to the need for local planning authorities to encourage consultation and to formulate and publish proposals for the preservation of designated areas. The advice calls for a clear definition of the special interest of the area stating that the initial "designation should not be seen as an end in itself".
11. In this case, the Council in 2001 published a full statement on the Fitzjohn/Netherhall conservation area with detailed guidance indicating the features that are considered particularly important and which contribute positively to the character and appearance of the area and that should be preserved wherever possible. Amongst the many buildings of importance in this context are Nos.11 and 13 Netherhall Gardens. Closely related to this, paragraph 1.4.7 of the Council's supplementary planning guidance adopted in 1994 also emphasises the importance of trees, the space between buildings and the contribution that is made to the quality of the environment by side as well as front gardens.
12. I appreciate that considerable care has been exercised in designing the new building in a manner that may be reminiscent of the kind of "lodge" dwellings that would have existed in suburbs of this nature. However, this is a tight site in close proximity to significantly larger dwellings and that presents extremely difficult design problems. In my opinion, the site is fundamentally an "infill" site and I consider that the plot is too narrow to permit a two-storey dwelling that would be of an appropriate scale and would sit comfortably alongside its neighbours. In my view the proposal would appear incongruous within the general street scene and out of scale with the surrounding development. As a consequence I consider that the proposed development would be harmful to the street scene and to the character and appearance of the conservation area. For that reason I have concluded that the proposal would be in conflict with current national and local policies to protect the historic environment.

Other Considerations

13. In considering this case, I have also had regard to the impact of the proposed development on the amenities of the residents of No.11 Netherhall Gardens as well as the proximity of the trees to that building. During my site inspection I visited the three flats situated on the north side of the building adjacent to the appeal site. Whilst these flats have modest kitchens and bathroom windows overlooking the site, the windows are set back approximately 1.5 metres from the boundary wall allowing approximately 2.5 metres space between the existing and the proposed buildings. This is not an

unusual situation and as there are no windows to other habitable rooms on that side of the building, I do not consider that the new building would be unduly harmful to the amenities of those flats. Nevertheless, the fact that I do not consider there would be any undue loss of residential amenity in this respect does not alter my findings on the main issue in this appeal and the substantive reasons why this appeal should be dismissed. With regard to the trees, whilst it is clear that No.11 has suffered some settlement, it is not for me to assess how this occurred or for what reason.

14. I have also taken into account the objectives set out in PPG3 relating to the need for more balanced communities and for a wide range of different sized dwellings. However, there is already a wide range of dwellings within this area including flats, detached and semi-detached houses. Clearly a new dwelling would make a small contribution to the overall demand for housing as well as to developing more sustainable communities, however in this case that benefit has to be balanced alongside the harm caused by such a building on the character and appearance of the conservation area.

Conclusion

15. For the reasons I have given and having regard to all other matters raised, I have concluded that this appeal should be dismissed.

Formal Decision

16. In exercise of the powers transferred to me I dismiss this appeal and refuse planning permission for the erection of a detached house at No.13 Netherhall Gardens, London NW3.

Information

17. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged in the High Court within six weeks of the date of the decision.



INSPECTOR