

## **GROUNDS OF APPEAL**

**FLAT 5, 50 BELSIZE SQUARE, NW3 4HN**

Prepared for Mr & Mrs T Moore

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## **1.0 INTRODUCTION**

### **REASON FOR REFUSAL**

- 1.1 This document comprises the appellants Grounds of Appeal (section g) against the refusal of planning application 2015/3854 by Camden Council ("the Council") for the formation of French doors ("the Proposal") at Flat 5, 50 Belsize Square ("the Site").
- 1.2 Despite Officers informally advising they were inclined to approve the application(see appended emails), planning permission was ultimately refused by decision notice dated 10<sup>th</sup> December 2015 for the following reason:
1. *The French doors and railings, by virtue of their design and prominent location are incongruous additions to the host building and harm the character and appearance of the host building, the street scene and the wider Belsize Conservation Area, contrary to policy CS14 (Promoting high quality plans and conserving our heritage) of the London Borough of Camden Local Development Core Strategy; and DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage), of the London Borough of Camden Local Development Framework Development Policies.*
- 1.3 Having regard to the reasons for refusal, it can be established that the proposal would neither cause harm to the amenities of neighbouring occupiers by reason of loss of privacy or overlooking nor cause noise or other nuisance.
- 1.4 At the outset, the appellants wish for it to be clear that the replacement of the window with French doors was not a deliberate attempt to flout planning legislation. Given the substantial number of similar/identical features at first floor level along Belsize Square and surrounding roads and the modest nature of the change they mistakenly assumed

that replacing the rotten window with hardwood French doors did not require express planning permission, particularly as they were not interfering with or obscuring any of the original plasterwork or altering the size of the window opening. As soon as it was brought to their attention that they were in breach of planning control, they instructed professional representation and remain committed to regularising this matter.

#### **PROCEDURAL MATTER**

- 1.5 The application as originally submitted to the Council sought retrospective consent for the French doors only (please refer to the planning history below for further details behind this). The application form pursuant to 2015/3854 the subject of this appeal thus only refers to the replacement treatment of the first floor window, with the accompanying plans and Design & Access Statement also only referring to the French doors.
- 1.6 The Council confirmed receipt of the application in a letter dated 13<sup>th</sup> July 2015, a copy of which is appended. This states the proposed works as being *“A retrospective application for the replacement of the existing rotten timber sash window with a new white panted double glazed hardwood window with a fixed double glazed pane above.”*
- 1.7 It is further noted that the formal consultation response from the Conservation Area Advisory Committee describes the development as *“Alterations to the first floor window to the front elevation (retrospective).”* It is therefore clear that at the time of validation, registration and during the consultation process, the description of development referred only to the French doors.

- 1.8 However, at some point before the formal decision, the Council amended the description of development to include reference to the railings. This is reflected in the reason for refusal. The appellant was not notified nor agreed to the change in description and consultees and neighbours were not consulted on the basis of the railings forming of the application.
- 1.9 It is therefore held that the decision notice and reason for refusal is flawed and incorrectly refers to the railings which did not form part of the application and were not consulted upon. Indeed, the railings are being dealt with separately following historic Officer advice on this matter.
- 1.10 Notwithstanding the above and in order to avoid the Council's actions prejudicing the appellants position, this Statement will include independent reference to the railings despite this aspect of work falling outside the terms of the application. We wish to make it clear that even in the event that the application for the railings fails, the appellants wish to secure the retention of the existing French doors with restrictors to preclude access onto the flat roof, a matter that can be secured by way of condition.
- 1.11 This Statement will accordingly demonstrate the manner in which the development the subject of this retrospective application fully accords with development plan policy and national advice and would not cause harm to the character of the property, street scene or conservation area.

**PLANNING HISTORY**

- 1.12 Planning application 2015/0375 sought retrospective consent for both the French doors and railings. During the consideration of this application, the Council advised the agents instructed to act on behalf of the applicants (now appellants) that the French doors were acceptable but the railings were more contentious and risked a refusal. Based on this Officer advice, application 2015/0375 was duly withdrawn.
- 1.13 An application seeking retrospective consent for the French doors only (now the subject of this appeal) was submitted on the basis that the Council advised these works were not contentious.

**PRE-APPLICATION ENGAGEMENT & ADVICE FROM OFFICERS**

- 1.14 As indicated above, during the consideration of 2015/0375, the case officer verbally advised on several occasions that the French doors were, in themselves, acceptable.
- 1.15 During the consideration of application 2015/3854, the original case officer first assigned to the application advised that the French doors were acceptable. Subsequent to this, discussions were undertaken to secure measures to preclude access onto the flat roof area. The specifications of door restrictors were sent to the Officer who remained content with the details.
- 1.16 However, subsequent to the numerous positive conversations, the applicants were advised that despite the professional opinion of the case officer the scheme was to be refused.

**THE PROPOSAL**

- 1.17 Retrospective planning permission is sought for the replacement of a window on the front elevation at first floor level with hardwood white painted French doors. No alteration to the width of opening was undertaken and all existing features were retained.
- 1.18 Full details of the French doors are shown on Drawing PA-01 and referred to within the Design & Access Statement.

## **2.0 PLANNING POLICY FRAMEWORK**

### **National Planning Policy Framework (NPPF) March 2012**

- 2.1 The National Planning Policy Framework (NPPF) 2012 establishes a presumption in favour of sustainable development, a principle that underpins all the advice contained therein.
- 2.2 Paragraph 17 of the NPPF sets out the 12 core planning principles that underpin the planning system and decision making. These include the need for planning not to simply be about scrutiny but to be creative about finding ways to enhance and improve the places in which people live their lives and to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 2.3 The NPPF specifically states that design policies should avoid unnecessary detail and not be unduly prescriptive. Paragraph 60 goes on to state that *"Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles."*
- 2.4 Paragraph 126 recognises that heritage assets are an irreplaceable resource and seeks to conserve them in a manner appropriate to their significance. Paragraph 133 states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, consent should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.



- 2.5 Paragraph 135 states that the effect of an application on the significance of a non-designated heritage asset should be taken in to account in determining the application and a balanced judgment will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 2.6 The Frameworks makes it clear that an application in compliance with development plan policy should be approved without delay.

**Camden**

- 2.7 The following policies are relevant to the consideration of the appeal;
- Policy CS14 of the Core Strategy; and
  - Policies DP24 & DP25 of the Development Policies document.
- 2.8 The Belsize Conservation Area Statement is also relevant to the consideration of this appeal.

### **3.0 DESCRIPTION OF SITE/CHARACTER OF AREA**

#### **Description of the Site**

- 3.1 Flat 5 at No.50 Belsize Square is at first floor level and comprises part of one half of an historic pair of semi-detached dwellings (adjoining no.49). It lies on the northern side of Belsize Square, opposite St Peter Church. The half of the building within which the appeal property is located has been subject to change over the years and has lost some, albeit not all, of its original features. The adjacent property, no.49 reflects the overall height and scale of the appeal property but has been subject to substantial change over the years and has lost all of its architectural detailing. As such, 49 and 50 Belsize Square do not form a symmetrical or balanced pair of semi-detached dwellings.
- 3.2 No.50a is an attached Coach House, located to the west of the appeal property. It is atypical to the scale, form, character and appearance of the neighbouring villas and the wider streetscape. Opposite the site are two further properties that do not share the same scale, form, character or appearance of the villas located within Belsize Square.
- 3.3 Belsize Square is residential in character and set around St Peters Church which lies centrally within it. The character of the area is largely derived from mid-century villas, with their uniformity in terms of height and relationship to the road making a positive contribution its appearance.
- 3.4 The appeal property is not listed and lies within the Belsize Conservation Area, sub area 1 (Belsize Park). A more detailed analysis of the conservation area is provided in section 4 of this statement.

## **4.0 GROUNDS OF APPEAL**

- 4.1 The reason for refusal states that the French doors by reason of their design and prominent location are incongruous additions to the host property and harm the character and appearance of the host building, the streetscene and wider Belsize Conservation Area. The reason for refusal thus relies on alleged harm to designated heritage assets (Belsize Conservation Area) and a non-designated heritage asset (the property itself).
- 4.2 In accordance with the requirements of the NPPF it is therefore necessary to examine the 'significance' of the designated and non-designated heritage assets before assessing the impact of the proposals thereon.

### **Significance of the Designated Heritage Asset**

- 4.3 The Belsize Conservation Area (CA) comprises the designated heritage asset in this case and more specifically Sub Area 1 of the CA, an area referred to as Belsize Park. The Conservation Area Statement (CAS) notes Belsize Park as being a distinct and substantial area of mid C19th villas that have a strong consistency in terms of building heights, their relationship to the street with front gardens set behind walls and italianate styling.
- 4.4 The CAS goes on to note that the design gives the area a strong identity, with symmetrical villas including details such as recessed sash windows with classically detailed surrounds and steps up to the porticoe. The villas form a continuous building line and their repetition gives rhythm to the street. The application property is noted as making a positive contribution to the character of the area, with no.49 and 50a not included in this list.

4.5 The special historic interest and significance of this designated heritage asset is accordingly derived from;

- The symmetrical pairs of villas;
- The consistency of building height and rhythm of development;
- The relationship between the built form and streets; and
- The Italianate styling of properties.

**Significance of non-designated heritage assets**

4.6 The only non-designated asset affected is the appeal property itself. As discussed above it is 1 of a group of 3 properties (49 and 50A) and forms a composition with no.49, having a number of similar features including storey heights, scale and relationship to the road. It is not identical to either no.49 or 50a, with the former having lost all of its Italianate detailing and benefitting from a roof level extension and the latter being a distinct element in the street scene. The only symmetry that exists between no.50 and 49 relates to their overall height and mass.

4.7 The main significance of no.50 lies in its contribution to the character of the CA through its height, mass and forming part of a pair of semi-detached villas (albeit non-identical in appearance). The survival of some classical detailing such as window surrounds and steps up to the porticoe is positive. The appeal property fits seamlessly into its historic context and has relatively limited significance as a heritage asset itself.

4.8 It is against this context that the impact and acceptability of the French doors fall to be assessed.

**Impact on the Designated Heritage Asset – Belsize Conservation Area**

- 4.9 The Council allege that the design and prominent location of the French doors would cause harm to the character and appearance of the CA. This is not accepted.
- 4.10 The character and appearance of the CA is defined by the consistency of building height and regular pattern of development, the relationship between the built form and the road and the pairing of villas. The Italianate styling, where this has been retained on these non-listed properties, also contributes to the overall character of the area. The French doors do not impact on any of these identified and defining characteristics of this part of the CA and do not therefore harm its historic significance.
- 4.11 Given the non-listed status of the properties many have inevitably been subject to change over the years, some to a greater extent than others. Indeed, there is no coherence in the architectural detailing between the appeal property, no.49 or 50A. The French doors do not therefore represent an incongruous feature on an otherwise balanced or symmetrical frontage within the CA.
- 4.12 Notwithstanding the above, the design of the French doors is simple, with their overall scale determined by the original window opening. The classical surround is retained in its original form. White painted hardwood frames are consistent with the materials and finish elsewhere on the property and those along Belsize Square. The simple design of the French doors reflects a large number of similar features evident along Belsize Square and in this regard cannot be considered incongruous or out of character.
- 4.13 In particular, there are a significant number of properties within this part of the CA that benefit from similar doors including, no's 46, 45, 40, 39, 37, 14, 13, 11, 9, 8, 7, 6 and 2. Photographs of some of these examples are appended. Whilst some of these French doors have been installed historically and without the benefit of permission there are more recent examples (No.14) which have been recently approved. Irrespective of

when or how these features were introduced, it remains that their existence contributes to the established character and appearance of the area and forms important context in the assessment of this appeal. This must be given due and appropriate weight in the assessment of this appeal.

- 4.14 The design and location of the French doors simply respects and reflects similar existing features commonly found within this part of the CA and which, inevitably, contribute to its character and appearance.
- 4.15 To conclude, the villas within Belsize Square do not form a perfectly preserved series of buildings. The retention of the French doors would not cause harm to the character or appearance of the CA and would be compliant with policies CS14 and DP25 of the development plan and the advice of the NPPF.

**Impact on non-designated heritage assets (no.50)**

- 4.16 The defining characteristics of no.50 relate to its pairing with no.49 and evidence of some of the original classical detailing. It is not, however, perfectly preserved and is not listed. The pair of villas of which the appeal property forms part of have no architectural cohesion.
- 4.17 The French doors have retained the classical surround and no changes to the size of opening have occurred. They are not visually prominent and do not dominate the appearance of the property which continues to be defined by its proportions and detailing such as window surrounds and steps up to the portico.
- 4.18 The design and location of the French doors represent a modest change to the front elevation and one that does not appear incongruous or detrimental to its overall character or appearance. In accordance with paragraph 135 of the NPPF a balanced

judgement is required when assessing impact on a non-designated heritage asset. In this case, there is no harm or loss of significance.

- 4.19 It is therefore concluded that the retention of the French doors would not offend policy requirements or the advice of the NPPF and would appropriately conserve the significance of both the designated and non-designated heritage assets.

**Compliance with Policy DP24**

- 4.20 Policy DP24 requires development to be of high design standards, respect the character, setting, form and scale of neighbouring properties and the character and proportions of the existing property.

- 4.21 As referred to throughout this Statement, the properties within Belsize Square do not comprise an unaltered series of paired villas. The variety in external appearance of neighbouring properties inevitably contributes to the character of the area and includes a notable number which have French doors of the same or similar design in the same location as those for which consent is sought under this appeal. In this regard the French doors do not represent a departure from the design, character or form of neighbouring properties.

- 4.22 For the reasons provided in paragraphs 4.16-4.19 the French doors respect the character of the existing property and do not impact on its proportions.

- 4.23 There is no conflict with Policy DP24.

**Oher Matters - Railings**

- 4.24 As set out in paragraphs 1.5-1.11, application 2015/3854 did not seek retrospective consent for the railings over the porticoe – it related only to the French doors. The change to the description of development and reference within the refusal notice to the railings is accordingly challenged and should not be treated as part of this appeal.
- 4.25 Furthermore, there is a current application before the Council to address the retention of the railings. Even in the event that this application is unsuccessful the appellants still wish to retain the French doors, the subject of this appeal.
- 4.26 A copy of the Design and Access Statement relating to the current application for the retention of the railings is appended. This demonstrates that the retention of the railings would not cause harm to the established character or appearance of the CA and respects the design, location and finish of similar railings in the immediate setting of the property.
- 4.27 In order to preclude access onto the flat roof of the porticoe (given the uncertainty about securing permission for the railings) the Council requested door restrictors, details of which were submitted and accepted by the Council. These details form part of the appeal submission.
- 4.27 The door restrictors can be appropriately secured and controlled by way of condition, a matter accepted by the Council, as set out in the appended email correspondence.
- 4.28 Whilst the retention of the railings is being pursued independently of this appeal, it is respectfully highlighted that whether the railings are retained is of no consequence to the consideration of this appeal and the details that form part thereof.



## **5.0 OTHER PLANNING CONSIDERATIONS**

- 5.1 The Proposal meets the needs of the current occupier without compromising the ability of future generations to meet their own. In this regard it comprises sustainable development.
- 5.2 The French doors do not prejudice the character and appearance of the locality or the amenities of adjoining occupiers. The proposal embraces principles of good design and reinforces local distinctiveness, in accordance with the NPPF.
- 5.3 The proposal accords with the objectives of the NPPF and comprises a sustainable form of development for which there is a presumption in favour.

## **6.0 CONCLUSIONS**

- 6.1 The appeal seeks consent for retention of French doors at the appeal property which is not listed but lies within the Belsize CA.
- 6.2 The design and location of the French doors respects the façade treatments of neighbouring properties within the CA and does not undermine the overriding character or appearance of the CA.
- 6.3 For the reasons detailed within this Statement, the French doors do not cause harm or loss of the matters of identified significance in relation to CA or the property itself.
- 6.4 The appeal proposal represents a sustainable form of development, embracing the principles of the NPPF and delivering a sensitive alteration influenced by the character of neighbouring properties to meet the needs of the current occupier. Accordingly, there is a presumption in favour of it.
- 6.5 In the absence of any policy conflict and having regard to the sustainable form of development proposed, it is respectfully requested that the appeal is allowed.