

## **GROUNDS OF APPEAL**

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

Prepared for Mr T Moore & Ms M Davies

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## **CONTENTS**

- 1.0 Introduction
  - Reason for refusal
  - Procedural Matter
  - Planning History
  - Pre-application Engagement & Advice
  - The Proposal
  
- 2.0 Planning Policy Framework
  
- 3.0 Description of Site/Character of Area
  
- 4.0 Grounds of Appeal
  - Significance of Designated Heritage Asset
  - Significance of Non-Designated Heritage Asset
  - Impact on Designated Heritage Asset
  - Impact on Non-Designated Heritage Asset
  - Compliance with Policy DP24
  
- 5.0 Other Material Considerations
  
- 6.0 Conclusions

## **1.0 INTRODUCTION**

1.1 This appeal is against Enforcement Notice EN14/0880 (the "Notice") served by Camden Council ("the Council") on 6<sup>th</sup> January 2015 on Mr Moore & Ms Davies (the "Appellants") for the alleged breach of planning control at Flat 5, 50 Belsize Square, NW 4HN (the "Site").

1.2 This statement sets out in detail the grounds for appealing against this enforcement notice.

1.3 For the avoidance of doubt, the breach of planning control alleged by the Council refers to:

*"The railings to the front elevation at first floor level, by reason of their size, design and prominent location result in demonstrable harm to the appearance of the host building, the street scene and Belsize Conservation Area, contrary to Policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Development Policies."*

And

*"The French doors installed on the front elevation at first floor level by virtue of their detailed design and location result in demonstrable harm to the appearance of the host building, street scene and the Belsize Conservation Area, contrary to Policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high*

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*quality design) and DP25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Development Policies."*

1.4 The Enforcement Notice requires the following works to be undertaken:

1. *"Remove the French doors and railings to the front elevation at first floor level;*
2. *Reinstate a timber-framed window; and*
3. *Make good any damage to the original building.*

A 6month period for compliance is given.

1.5 The appellant is not disputing that a breach of planning control has occurred and they have sought to work with the Council since the matter was first brought to their attention (see paragraph 2.3 below).

1.6 The appeal against the Notice is on the following grounds;

- Ground (a) – planning permission should be granted ; and
- Ground (g) – the time given to comply with the Notice is too short.

## **2 BACKGROUND AND DESCRIPTION OF APPEAL SITE/AREA**

### **BACKGROUND**

- 2.1 At the outset, the appellants wish for it to be clear that the replacement of the window with French doors and formation of railings without planning permission was not a deliberate attempt to flout planning legislation on their part.
- 2.2 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 and the formation of railings 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.
- 2.3 As soon as the breach in planning control was brought to their attention they instructed professional representation, have sought to work with the Council throughout and remain committed to regularizing matters. Plans detailing the works the subject of this Notice are appended hereto for reference.

### **Planning History**

- 2.4 Upon contact from the Council, the appellants duly submitted an application for the retention of the French doors and railings under 2015/0375. During the course of this application, the case officer verbally advised on several occasions that the French doors were, in themselves, acceptable but there were concerns about the railings. This application was then withdrawn and an application seeking to retain the French doors only was submitted (2015/3854).

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- 2.5 The case officer assigned to this 2<sup>nd</sup> 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.
- 2.6 However, subsequent to the numerous positive conversations, the appellants were advised that despite the professional opinion of the case officer the scheme was to be refused.
- 2.7 However, in refusing application 2015/3854 the Council changed the description of development just prior to determination to include the railings (which were clearly not part of the application with no agreement from the appellants to this last minute change). There is a current appeal against the refusal of application 2015/3854 reference APP/X5210/W/15/3141456.
- 2.8 Despite submitting the appeal which has not, to date, been determined and an application to address the railings (undetermined at the date of submission of this appeal), the Council proceeded to serve this Notice.

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

- 2.9 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. For example the front door is no longer recessed and French doors have been installed on the front elevation at basement level. The

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- 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 original architectural detailing. As such, 49 and 50 Belsize Square do not form a symmetrical or architecturally balanced pair of semi-detached dwellings.
- 2.10 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.
- 2.11 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 make a positive contribution its appearance.
- 2.12 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.

### **3.0 PLANNING POLICY FRAMEWORK**

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

- 3.1 The National Planning Policy Framework (NPPF) 2012 establishes a presumption in favour of sustainable development, a principle that underpins all the advice contained therein.
- 3.2 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.
- 3.3 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."*
- 3.4 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.



- 3.5 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.
- 3.6 The Frameworks makes it clear that an application in compliance with development plan policy should be approved without delay.

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- 3.7 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.
- 3.8 The Belsize Conservation Area Statement is also relevant to the consideration of this appeal.

## **4.0 GROUNDS OF APPEAL**

### **GROUND A – PLANNING PERMISSION SHOULD BE GRANTED**

- 4.1 Plans detailing the works the subject of this Notice are appended hereto.
- 4.2 The Notice states that the French doors by reason of their detailed design and prominent location result in demonstrable harm to the appearance of the host building, street scene and wider Belsize Conservation Area. The Council further contend that the railings by virtue of their size, design and prominent location would result in demonstrable harm to the property, street scene and Conservation Area.
- 4.3 In assessing whether planning permission should be granted for the retention of the French doors and railings it is therefore appropriate to consider the impact of the works on the designated heritage asset (Belsize Conservation Area) and a non-designated heritage asset (the property itself).
- 4.4 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**

- 4.5 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), copy appended, 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.

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- 4.6 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. No.49 and 50a not included in this list.
- 4.7 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**

- 4.8 The only non-designated asset affected is the appeal property itself. As discussed above it is 1 of a group of 3 properties (together with 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, however, 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.

- 4.9 The main significance of no.50 lies in its contribution to the character of the CA through its height, mass and in 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 but the property is not unaltered. The property has been subject to change over the years, with the front door no longer recessed and French doors evident at basement level. Whilst the appeal property fits seamlessly into its historic context it has relatively limited significance as a heritage asset itself.
- 4.10 It is against this context that the impact and acceptability of the French doors and railings fall to be assessed.

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

- 4.11 The Council consider that the design and prominent location of the French doors and the size, design and location of the railings would cause harm to the character and appearance of the CA. This is not accepted.
- 4.12 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 and railings 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.

- 4.13 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 composition in which the appeal property is viewed).
- 4.14 The French doors and railings do not therefore represent an incongruous feature on an otherwise balanced or symmetrical frontage within the CA. Indeed, there exist French doors on the frontage of no.50, at basement level with French doors and railings characterizing the CA.

#### **French Doors**

- 4.15 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.
- 4.16 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.

- 4.17 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.

### **Railings**

- 4.18 With regard to the railings, these are modest in form, do not comprise a solid means of enclosure, reflect the design of other similar features within this part of the CA and rely on traditional materials.
- 4.19 When viewed against the property, the wider terrace it forms part of and the area more generally, the railings are not unduly prominent, incongruous or harmful to the identified significance of the area.
- 4.20 Notwithstanding the above, when assessing application 2008/3854 for railings at no.14 Belsize Square, the Council considered the impact of the proposal on the character and appearance of the CA. Whilst the UDP has now been superseded, the thrust of protecting the character and appearance of the CA remains and the CA Statement 2003 was a material consideration in 2008 as it is now. A copy of the Officer report and plans are appended.
- 4.21 In particular, the officer noted that a number of neighbouring properties had similar alterations and therefore whilst they may be 'inappropriate' in themselves they were *"part of the character and appearance of this part of the conservation area, and this needs to be given some weight in the assessment of the application."* The officer report goes on to note that the architectural coherence of the context of no.14 had been compromised to such an extent that the railings (and French doors) would not be harmful enough to justify refusal. Permission was duly granted.

- 4.22 As referenced above, no.50 does not form part of a symmetrical pair of villas with the added distraction of the Coach House at no.50A. The appeal property and its context are not therefore coherent in appearance and the railings would not materially undermine or harm the appearance of the property or this part of the CA.
- 4.23 It is further highlighted that there are a considerable number of properties within this part of the CA that benefit from similar features, including, for example no's 47, 46, 45 and 40, to highlight only a few in the immediate setting.
- 4.24 The retention of the French doors and railings 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)**

- 4.25 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.
- 4.26 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.

- 4.27 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.
- 4.28 The railings have not resulted in the loss of any architectural detailing and when viewed against the scale, mass and design of the existing property and terrace, they do not significantly or harmfully impact on their character or appearance.
- 4.29 It is therefore concluded that the retention of the French doors and railings 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**

- 4.30 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.
- 4.31 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. This includes a notable number of properties that have French doors and railings 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 and railings do not represent a departure from the design, character or form of neighbouring properties but reflect existing characteristics.



- 4.32 For the reasons provided above, the French doors and railings respect the character of the existing property and do not impact on its proportions.
- 4.33 There is no conflict with Policy DP24.

**GROUND (F) – TIME PERIOD FOR COMPLIANCE**

- 4.34 The Council has given a 6month period to comply with the Notice. This is considered inadequate.
- 4.35 Whilst these works are not substantial they must nonetheless be undertaken professionally and would require a bespoke window to be procured and installed. The economic climate is such that most good trades have a lead in time of around 6months, often more. This together with the need to procure and install a bespoke window may impact upon the ability to secure these works being completed within the prescribed timescale. Given the implications of failing to comply with a Notice in the defined timescale and in these circumstances it is appropriate to consider a 9month period as being more reasonable.
- 4.36 Accordingly and without prejudice to Ground (A) of this appeal, should the Notice be upheld, in part or in full, it is considered reasonable and appropriate to afford the appellant a minimum of 9 months which to remedy the breach.

## **5.0 OTHER MATERIAL 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 and railings do not prejudice the character and appearance of the locality or the amenities of adjoining occupiers. The Council previously considered door restrictors on the French doors and it remains open to the Inspector to consider if these are appropriate or necessary. Details of these are provided and could be secured by way of condition.
- 5.3 The proposal embraces principles of good design and reinforces local distinctiveness, in accordance with the NPPF.
- 5.4 6A Belsize Park Gardens also lies within the Belsize CA, sub area 1 and consent was recently granted under 2014/3857/P for a balustrade at first floor level. The policies applied in the assessment of this proposal remain relevant to this submission. A copy of the approved plans and Officer report are appended hereto.
- 5.5 In recommending approval, considerable weight was given to the prevalence of similar railings along Belsize Park Gardens. It was ultimately concluded that the balustrade would not be uncharacteristic and would not therefore harm the significance of the CA. As set out above, there are a number of balustrades (and French doors) in the immediate context of no.50, many of similar height and design to that which forms the subject of this application.
- 5.6 The consideration of policy and the relevance of setting and context, as afforded in the assessment of 2014/3857/P are relevant and material to this submission.

## **6.0 CONCLUSIONS**

- 6.1 The appeal seeks consent for retention of French doors and railings at the appeal property which is not listed but lies within the Belsize CA.
- 6.2 The design and location of the French doors and railings 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 and railings do not cause harm or loss of the matters of identified significance in relation to CA or the property itself.
- 6.4 The appeal property does not form part of a unified terrace. The similarities between the appeal property and no.49 relate only to scale, form and mass, none of which are impacted by these works.
- 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.
- 6.5 Notwithstanding the above, should the Notice be upheld, the time period for compliance is not considered sufficient.
- 6.6 On the basis of the evidence provided herein, it is respectfully requested that the Enforcement Notice is not upheld, in full or part, and that planning permission is approved.