

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>		05/01/2016	
		N/A / attached		<b>Consultation Expiry Date:</b>		N/a	
<b>Officer</b>				<b>Application Number</b>			
John Sheehy				2015/6310/P			
<b>Application Address</b>				<b>Drawing Numbers</b>			
Merton House Merton Lane London N6 6NA				Refer to Decision Notice			
<b>PO 3/4</b>		<b>Area Team Signature</b>		<b>C&amp;UD</b>		<b>Authorised Officer Signature</b>	
<b>Proposal</b>							
Submission of landscaping details as required by condition 3 of planning permission ref. 2010/2460/P dated 07/09/2010 (for excavation to create basement floor level, and widespread changes to north and east elevation of the single family dwellinghouse)							
<b>Recommendation:</b>		<b>Refuse and Enforcement Action to be Taken</b>					
<b>Application Type:</b>		Approval of Details					
<b>Conditions or Reasons for Refusal:</b>		Refer to Decision Notice					
<b>Informatives:</b>							
<b>Consultations</b>							
<b>Adjoining Occupiers:</b>		No. notified	<b>0</b>	No. of responses	<b>0</b>	No. of objections	<b>0</b>
				No. electronic	<b>0</b>		
<b>Summary of consultation responses:</b>		N/a					
<b>CAAC/Local groups comments:</b>		N/a					

## Site Description

The site is located on the prominent corner of Merton Lane and Highgate West Hill and comprises a detached 1930s dwelling house, two storeys in height. The property is set behind a large garden which wraps around to the Highgate West Hill side.

The majority of the surrounding properties on Merton Lane and Highgate West Hill are large detached dwelling houses.

The building is not listed but lies within the Highgate Village Conservation Area and is identified as making a positive contribution to the character and appearance of the Conservation Area.

## Relevant History

### Planning Application History

**September 2010:** Planning permission was **granted** for excavation to create basement floor level, including garage and ramped drive; remodelling of rear elevation at ground floor level to provide additional residential accommodation; erection of new single storey extension on side elevation with glazed link to main house; erection of rear extension at first floor level; installation of new dormer on side elevation and enlarged dormer on rear elevation. This was under planning ref: 2010/2460/P.

**July 2013:** Permission was granted for the approval of details pursuant to condition 3 (hard and soft landscaping and means of enclosure of all un-built, open areas) of planning permission 2010/2460/P referenced above. The details were approved under ref: 2013/2999/P and have not been implemented.

### Enforcement Investigation History

**8 April 2015:** Complaint received.

**1 May 2015:** Site visit carried out by Site Inspector, case referred to Enforcement Officer.

**15 June 2015:** Site visit carried out by Enforcement Officer and Landscape Officer.

**19 June 2015:** Officers advised the planning agent that to avoid enforcement action against the front and side boundaries, the front fence to Merton Lane should be reduced to a maximum of 1.0m in height with a larger natural hedge behind. Officers advised the owner to provide a timetable for these works.

**2 July and 7 July 2015:** Agent representing the applicant wrote to officers, offering to reinstate what was in place before (i.e. low brick wall and hedge above).

**15 July 2015:** The planning agent stated that the works to the front boundary would take place in the second half of September stating "... *there are two reasons why we would like the works to the front fence to be carried out in second part of September this year... Firstly the applicants would like to carry out these works in conjunction with landscaping works they plan to do i.e. at optimum planting season. Of course front hedging will be a part of planting element. Secondly... the applicants will be away for most of August and it will be very difficult for us and them to organize, let alone see the completed before their departure. I hope you will understand and find it reasonable*".

**16 July 2015:** Officers confirmed to agent that action would be put on hold to allow the unauthorised works to be rectified.

**4 August 2015:** Breach of Condition Notice issued (ref: EN15/0370) for failure to comply with Condition 3 (Landscaping). This set out the following requirements within 4 months (05/12/2015):

- in the front garden plant 6 replacement trees;
- in the rear garden plant 4 replacement and 3 new trees; and
- “completely remove the artificial grass covering to the front garden and replace with a natural turf lawn”

## **Relevant policies**

### **National Planning Policy Framework 2012**

### **The London Plan 2015, consolidated with alterations since 2011**

### **LDF Core Strategy and Development Policies**

#### **Core strategy:**

**CS5** Managing the impact of growth and development

**CS14** Promoting high quality places and conserving our heritage

**CS15** Protecting and improving our parks and open spaces and encouraging biodiversity

#### **Development policies:**

**DP24** Securing high quality design

**DP25** Conserving Camden’s heritage

**DP26** Managing the impact of development on occupiers and neighbours

#### **Camden Planning Guidance 2015:**

**CPG1** (design) chapters, 1, 2, 3 & 6

**CPG3** (sustainability) chapter 13

### **Highgate Conservation Area Statement (2007)**

## Assessment

### Background and Proposal

Condition 3 has already been satisfied by an approval of details application granted July 2013 under 2013/2999/P. The details were not implemented as approved and a Breach of Condition Notice was issued in August 2015.

The current application was submitted prior to the compliance date specified on the Breach of Condition Notice (05/12/2015) and was not invited by officers.

The layout now submitted as part of this retrospective application differs from the layout approved in July 2013 (2013/2999/P) in two significant respects:

- A plastic covering, imitating grass, has been installed at the front of the property. In the approved landscape layout, this area was indicated as being finished in “good quality amenity grade turfs”; and
- A high metal railing has been erected at the front boundary of the property, which this application seeks to retain.

### Policy Background

Policy DP24 states that the Council will grant permission for development that is designed to a high standard. In terms of works to the boundary of this property, the following considerations contained within this policy are relevant:

- a) development should consider the character, setting, context and the form and scale of neighbouring buildings;
- g) the provision of appropriate hard and soft landscaping including boundary treatments.

Policy DP25 ‘Conserving Camden’s Heritage’ states that within Conservation Areas, the Council will only grant permission for development that preserves and enhances the character and appearance of the Conservation Area.

Camden's Planning Guidance 1 (design) states that boundary treatments should be considered together with the potential for elements of soft landscaping. It states that treatments such as low brick walls and hedges are encouraged (para 6.35). CPG1 recognises that appropriate boundary treatment contributes to the qualities of continuity and enclosure within the street scene.

Paragraph 6.38 of CPG1 states that in conservation areas elements should replicate the original design and detailing and comprise the same materials; and the works should preserve and enhance the existing qualities and context of the site and the surrounding area.

### Proposed layout as submitted for approval

#### *Front boundary*

A metal fence approx. 2.0m in height has been installed along the Merton Lane frontage. The base is set into the retained brick wall. The metal railing is black with silver arrowheads on the top.

A green plastic screen has been attached to the metal railing. This prevents views out of and into the garden.

At the corner with Highgate West Hill, the boundary treatment changes from a metal grille into a solid timber fence. The solid timber fence replicates a previous fence of a similar appearance, however, the metal fence with green plastic sheeting is a completely new element.

The alterations have resulted in an increase in the height of the boundary treatment to Merton Lane to well over 1.0m. This is above the Permitted Development maximum and planning permission is required for this development. A planning application was not submitted for these works before they were carried out.

During the initial stages of the investigation the owner asserted that there was a previous railing in this location. No evidence was provided to support this assertion. The planning agent also claimed that the 2010 application did not specify the height of the boundary treatment and so they should be allowed to build to whatever height they wanted. This is not correct as the works still require planning permission and are not in accordance with any approved details. Finally, on 15 July, in recognising that the height of the existing fence to Merton Road is in breach of planning control, the owner's agent confirmed by email that the rectification works would take place in September 2015, and that these would bring the front boundary enclosure down to 1.1m in height.

The agent who prepared the current application now asserts that there was have a previous "chicken wire" fence to the front boundary.

It is noted that no evidence of the presence of such a fence has been provided to support this assertion. No information about its dimensions (e.g. height) have been provided. It is also noted that this alleged "chicken wire" fence was not mentioned previously by the owner or his agent during the investigation in June and July 2015 despite numerous requests by officers for information about the front boundary works.

No evidence has been provided by the owner or either of his agents to demonstrate that the front boundary to Merton Lane was anything other than a low brick wall around 1.0m in height with a hedge above.

The unauthorised metal railing to the front is detrimental to the appearance of the host property and fails to preserve the character and appearance of the Conservation Area for the following reasons:

- The attractive mature shrubbery and hedging to the front boundary has been removed. While a row of shrubs has been planted behind the front railing, these are not mature and the plastic sheeting between the bars of the railing has been retained;
- The boundary works that have been carried out do not relate sympathetically to the existing context which has a soft-landscaped character with numerous mature trees. Instead, the works have introduced a hard urban treatment which is visually prominent over a large part of Merton Lane and Highgate West Hill. The railings are of a scale and nature which would be more appropriate in a large-scale public building, not a private house on a residential street. They are not in keeping with the character and appearance of this site, the property or the surrounding buildings;
- The unauthorised front boundary treatment, removing the previous soft-landscaped treatment, ruptures this established continuity and introduces a new type of boundary treatment in an area where it is not expected. This sudden change in boundary treatment detracts from the established pattern of continuity and enclosure within the street scene. As such, it undermines and erodes the character and appearance of the Conservation Area;
- The green plastic sheeting attached to the railings and the silver arrowheads give an appearance of cheapness and poor quality which is not appropriate in a visual part of a

property, particularly in a Conservation Area. The works result in significant harm to the appearance of the building and the site, in breach of policy DP24. They fail to preserve and enhance the appearance of the Conservation Area as required by policy DP25.

#### *Plastic grass covering to the front area*

The large curved area behind the front boundary fence has been laid out with a synthetic plastic covering.

The approved landscape details specify “Good quality amenity grade turfs” and on the drawings the front area is labelled and coloured in the same way as the area of natural turf within the rear garden area.

The agent for the owner has stated that this artificial grass treatment does not need planning permission. Nevertheless, they have submitted for this detail via this discharge of condition application. It is not clear whether this synthetic covering is porous, however, site inspection would indicate that it has very limited/no porousness. A restriction on permitted development rights for creation of hard impermeable surfaces to front gardens of dwellinghouses was introduced in October 2008.

The newly-planted trees are located within slits where the synthetic plastic covering has been sliced open rather than in dedicated tree pits. As a result, their access to moisture and air are compromised. In addition to restricted air and moisture, the lack of natural turf vegetation means that there will be very limited plant or insect life around the newly-planted trees to support a natural ecosystem. These factors compromise their ability to grow naturally, to reach a mature height and to serve as genuine replacements for the trees that were removed without permission.

Similar concerns are raised in terms of the long term health and the capacity for growth of the existing trees which are surrounded by the synthetic plastic covering.

As this alteration detrimentally affects the biodiversity of the site and the long-term health of the trees, it is contrary to policy DP25.

#### Conclusion

The works that have been carried out without permission are unacceptable due to their failure to comply with adopted policies and guidance and the serious visual harm they cause to the application site and the Conservation Area and their biodiversity. As such it is recommended to refuse the retrospective application for approval of details and that an enforcement notice is served requiring the removal of the inappropriate boundary treatment.

The synthetic plastic covering to the front area is in breach of the Breach of Condition Notice and action will be pursued separately.

**Recommendation:** that the Head of Legal Services be instructed to issue an Enforcement Notice under Section 172 of the Town & Country Planning Act 1990 as amended to remove the inappropriate boundary treatment to Merton Lane and to either replace with fencing to match the design of the fence previously in place or to replace with fencing no higher than 1.0m in height, and to pursue any legal action necessary to secure compliance. Officers be authorised in the event of non-compliance to prosecute under section 179 or appropriate power and/or take direct action under 178 in order to secure the cessation of the breach of planning control.

**The notice shall allege the following breaches of planning control:**

Erection of front boundary fencing.

**WHAT ARE YOU REQUIRED TO DO:**

*Within four months the metal boundary treatment to Merton Lane shall be completely removed and*

*Either:*

- *replaced with fencing to match the design of the fence previously in place;*

*or*

- *replaced with fencing no more than 1.0m in height.*

**REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:**

a) The front boundary fencing that has been installed, by reason of its design, height, materials and appearance forms a discordant and incongruous alteration which detracts from the character and visual appearance of the building, fails to relate to the established architectural character of the property and its neighbours and neither preserves nor enhances the character and appearance of the Highgate Village Conservation Area. As such, the works are 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.

The Council do not consider that planning permission should be given because planning conditions could not overcome these problems.